

Please note: These transcripts are not individually reviewed and approved for accuracy.

MEETING  
STATE OF CALIFORNIA  
INTEGRATED WASTE MANAGEMENT BOARD  
PERMITTING AND ENFORCEMENT COMMITTEE

JOE SERNA, JR., CALEPA BUILDING  
1001 I STREET  
2ND FLOOR  
COASTAL HEARING ROOM  
SACRAMENTO, CALIFORNIA

MONDAY, APRIL 3, 2006

10:00 A.M.

JAMES F. PETERS, CSR, RPR  
CERTIFIED SHORTHAND REPORTER  
LICENSE NUMBER 10063

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMITTEE MEMBERS

Ms. Rosalie Mulé, Chairperson

Ms. Cheryl Peace

Ms. Pat Wiggins

BOARD MEMBERS

Ms. Margo Reid Brown, Board Chairperson

Mr. Jeffrey Danzinger

STAFF

Mr. Mark Leary, Executive Director

Ms. Julie Nauman, Chief Deputy Director

Mr. Elliot Block, Acting Chief Counsel

Mr. Howard Levenson, Deputy Director

Mr. Michael Bledsoe, Senior Staff Counsel

Ms. Bridget Brown

Mr. Richard Castle

Mr. Marke de Bie

Mr. Randy Friedlander

Ms. Sue Markie

Ms. Cathleen Oliver

Mr. Chris Phillips

Ms. Bea Poroli

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES CONTINUED

ALSO PRESENT

Ms. Cynthia Despres, East Valley Coalition

Mr. James Donaben, Kochergen Farms Composting

Ms. Linda Lye, International Brotherhood of Teamsters

Mr. Patrick Matthews, Santa Cruz Solid Waste and Recycling

Mr. Michael Mendez, Assembly Member Cindy Montaez Office

Mr. Exiquio Ruiz, Assembly Member Cindy Montaez Office

Mr. Wayne Tsuda, City of Los Angeles LEA

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

INDEX	PAGE
Roll Call And Declaration Of Quorum	1
Public Comment	102
A. Deputy Director`s Report	2
B. Consideration Of Application By Butte County For Landfill Closure Loan Program Loan (Integrated Waste Management Account FY 2005/06 -- (April Board Item 5)	9
Motion	17
Vote	18
C. Consideration Of A Revised Full Solid Waste Facilities Permit (Disposal Facility) For The Buena Vista Drive Sanitary Landfill, Santa Cruz County -- (April Board Item 6)	18
Motion	27
Vote	27
D. Consideration Of A Revised Full Solid Waste Facilities Permit (Compostable Materials Handling Facility) For Kochergen Farms Composting Inc., Kings County -- (April Board Item 7)	28
Motion	34
Vote	34
E. Consideration Of A New Full Solid Waste Facilities Permit (Transfer/Processing Station) For American Waste Industries, The City Of Los Angeles -- (April Board Item 8)	34
F. Consideration Of A Revised Full Solid Waste Facilities Permit (Transfer/Processing Station) For The Sacramento Recycling And Transfer Station, Sacramento County -- (April Board Item 9)	95
Motion	101
Vote	101
Adjournment	102
Reporter's Certificate	103

1 PROCEEDINGS

2 CHAIRPERSON MULÉ: Good morning, everyone.

3 Welcome to the April 3rd meeting of the Permitting and  
4 Enforcement Committee. We have agendas on the back table.

5 And if anyone would like to speak to an item, I  
6 ask that you fill out a form and bring it up to Donnell  
7 here in the front. And you'll have an opportunity to  
8 address the Committee.

9 And also I'd like to ask everyone to please turn  
10 off or put in the silent mode your cell phones and pagers.

11 And with that, Donnell, would you please call the  
12 roll.

13 SECRETARY DUCLO: Members Peace?

14 COMMITTEE MEMBER PEACE: Here.

15 SECRETARY DUCLO: Wiggins?

16 Chair Mulé?

17 CHAIRPERSON MULÉ: Here.

18 Board Member Wiggins will be a little bit late.  
19 She should be here within the next 30 minutes or so. But  
20 we're going to get started and then have her catch up when  
21 she gets here.

22 Members, do have I any ex partes?

23 Board Member Peace?

24 COMMITTEE MEMBER PEACE: Yes, I spoke with  
25 Michael Mendez from Montaez' office recording Item No. 8.

1           CHAIRPERSON MULÉ: Thank you. And I'm up to  
2 date.

3           Okay. With that, Howard, would you provide us  
4 with your Deputy Director's report.

5           Good morning.

6           DEPUTY DIRECTOR LEVENSON: Good morning, Madam  
7 Chair, Member Peace and Member Brown.

8           I've got quite a few items today for the Deputy  
9 Director's report, and I'll just plunge right into that.

10          First I want to give you an update on the AB 1497  
11 permit implementation regulations effort. As you know,  
12 this package involves a number of important issues, things  
13 such as significant change in the design or operation of a  
14 solid waste facility that is not authorized by the  
15 existing permit -- and that's quoted from the statute;  
16 that's what we're trying to address in those  
17 regulations -- as well as requirements for public hearings  
18 for revised and new permits.

19          The Board has directed us to notice those  
20 regulations for the formal 60-day comment period. And we  
21 just received approval late last week from the Office of  
22 Administrative Law. So that 60-day comment period will  
23 begin this Friday, April 7th. It will run 60 days, until  
24 June 6th. And we will have the required public hearing on  
25 June 5th, either as part of the P and E Committee or

1 afterwards in the afternoon, depending on how you wish to  
2 schedule that.

3 We also have two workshops scheduled, today in  
4 Sacramento and Wednesday in Diamond Bar, just to provide  
5 kind of a Q and A period for stakeholders to ask questions  
6 about what's in the regulatory package. It won't be  
7 taking formal comments, but at least provide folks an  
8 opportunity to seek clarification so that they can make  
9 more informed comments during the 60-day comment period.

10 Secondly, I want to report that Mark de Bie and I  
11 last Tuesday night, I guess, went down to Sun Valley at  
12 the request of Los Angeles City Council Member Cardenas,  
13 who was hosting a community meeting on the Bradley  
14 Landfill draft environmental impact report. I want to  
15 thank Wayne Tsuda for picking us up in the drenching rain  
16 and getting us to the meeting.

17 It was a -- there were a number of state and  
18 local regulatory agencies who made short presentations on  
19 their agency's role in the environmental review process,  
20 as well as the permitting process. And then we were  
21 available for kind of informal Q and A with the members of  
22 the community. There were about 125 people there, about  
23 35 speakers, roughly 60 percent in favor of variations of  
24 the proposed project, about 40 percent opposed. Mostly  
25 raising concerns, for those opposed, about noise, traffic,

1 and odor from the green waste operations there.

2 We do anticipate the possibility of a revised  
3 permit coming to the Board for consideration some time  
4 this year. And as some of you will recall, the last time  
5 we had a revision of a Bradley Landfill permit we had  
6 comments from hundreds of community members and had a  
7 number of special meetings for their input.

8 Third, I want to raise to you or flag to you a  
9 proposed general waste discharge requirement for green  
10 waste composting that's been proposed by the Central  
11 Valley Regional Water Quality Control Board. This  
12 potential general waste discharge requirement, which would  
13 cover all composting operations in the Central Valley  
14 Region, which is a huge region -- it covers the entire  
15 Central Valley all the way up to the Oregon border and all  
16 the way down south to the Tehachapis -- they would have  
17 major implications for green waste composting in AB 939  
18 efforts in that region.

19 The proposed requirements would likely greatly  
20 increase the cost of composting in that region. We are  
21 preparing some initial comments. And Mr. Leary has  
22 contacted the Executive Director of the Regional Water  
23 Board to see if we can go ahead and meet with them early  
24 on in this process to discuss these issues and see what  
25 kind of resolution we can come up with. So we'll keep you



1 up to speed on that.

2           Then on Wednesday, we had the first meeting of  
3 the Illegal Disposal -- or Illegal Dumping Task Force,  
4 which is a statewide task force that we've set up, has a  
5 number of representatives from CSAC, League of Cities,  
6 California County Engineers, Bureau of Land Management,  
7 the Farm Bureau, Riverside Illegal Dumping Task Force,  
8 Californians Against Waste, and on and on. And this is a  
9 real cross-section of folks are very interested in the  
10 illegal dumping issue. They're charged over the next six  
11 or seven months is to come up with specific  
12 recommendations and analyses that we will then report back  
13 to you for further direction on this issue.

14           The next meeting will be in late May, and we'll  
15 provide more information on that as that approaches.

16           Let's see, also ongoing last week and just  
17 finished up was our investigation of Disposal Gardens in  
18 southern California in the Torrance area. There were  
19 several press articles last week that talked about our  
20 investigation of this site, which is also known as  
21 Torrance Sand & Gravel.

22           This is a site that started being dumped on in  
23 the 1920s. It was reportedly backfilled with mine  
24 tailings, oil and sand and possibly some additional  
25 debris. And then there were a series of oil pits that

1 were at the site.

2           The site was closed in '72 and then it was  
3 subsequently developed with homes comprising the Rolling  
4 Hills Estate neighborhood near Deportola Park. Our Closed  
5 Illegal Abandon Sites Program was requested by the Los  
6 Angeles county LEA along with DTSC and the regional water  
7 quality board to provide some investigative assistance at  
8 the site in response to public concerns that had been  
9 voiced about potential threats from gas migration and  
10 other factors.

11           We had planned an investigation in December of  
12 2005, in cooperation with the local community, but we had  
13 a number of adverse comments from the community about the  
14 scope of the investigation, and so we postponed that in  
15 cooperation with the LEA until last month.

16           We were able to address in our minds the public  
17 concerns. And the community and the local agencies were  
18 very supportive in moving forward on this investigation.  
19 So we did finish it up on March 31st.

20           Preliminary results indicate some evidence of  
21 explosive landfill gas migration. And we are now  
22 conducting lab analyses to evaluate the presence of  
23 potential contaminants of concern in both the subsurface  
24 air and the soil.

25           Most likely if we do find anything else, probably

1 the Department of Toxic Substances Control and the  
2 regional water quality control board will have to  
3 determine if there's any follow-up enforcement action  
4 necessary. And they would probably pursue the follow-up  
5 under a hazardous substance release site kind of  
6 classification.

7 I think Dawn Owen of our CIA Program deserves  
8 tremendous credit for her hard work and going down there,  
9 she and a few others. And Abel Martinez-Centeno has been  
10 down there and Roni Java from the Press Office has been  
11 helping out to just make sure that it goes smoothly. So I  
12 want to thank all of them for their hard work.

13 So we'll let you know as soon as we get further  
14 results from the analyses.

15 There's two other things I'd like to mention.  
16 One is about avian influenza, bird flu. This is something  
17 that is of great concern to all of us. I think everybody  
18 is kind of watching the March of avian flu across Europe  
19 and across Asia.

20 The California Office of Homeland Security will  
21 be host to a seminar on April 27th in Fresno to discuss  
22 management options for an outbreak should an outbreak of  
23 avian influenza occur in California. This has the  
24 potential to devastate poultry flocks. And there are  
25 fears of course that it may mutate into a more virulent

1 form of human influenza. And we've worked before with  
2 different agencies at the state and federal level,  
3 including Food & Agriculture, on management methods for  
4 massive poultry kills; for example, when we had the  
5 outbreak of exotic Newcastle Disease back in the 1990s.

6           So this seminar that's going to happen later this  
7 month is designed to bring together the agencies at all  
8 levels to discuss way ahead of time how we should respond  
9 to and provide disposal services if there is an outbreak  
10 of avian influenza.

11           And then, lastly, I just would like to mention  
12 that this Wednesday afternoon we will be -- our California  
13 Integrated Waste Management Board hearing panel is  
14 scheduled to hear the appeal by Mr. Filbin of a notice and  
15 order that the Board issued in its role as an enforcement  
16 agency in San Luis Obispo.

17           With that, I will close my Deputy Director's  
18 report and be happy to answer any questions.

19           CHAIRPERSON MULÉ: Thank you, Howard.

20           Do we have any questions?

21           And also I would like to recognize our Board  
22 Chair, Margo Reid Brown.

23           Thank you so much for being here. I appreciate  
24 it.

25           Okay. With that, let's get started on Committee

1 Item B, April Board Item 5.

2 Howard, please.

3 DEPUTY DIRECTOR LEVENSON: Okay. Item B is  
4 consideration of an application by Butte County for the  
5 Landfill Closure Loan Program loan. This will be from the  
6 Integrated Waste Management account for Fiscal Year  
7 2005-2006.

8 And with me to make the presentation will be  
9 Bridget Brown, and assisted by her supervisor, Sue Markie.

10 MS. BROWN: Good morning.

11 Assembly Bill 467 authorized the Board to award  
12 interest-free loans to operators of older unlined  
13 landfills to close early to avoid or mitigate potential  
14 environmental problems.

15 Priority points are given to facilities that are  
16 either small, located in rural areas, have approved  
17 closure -- post-closure maintenance plans, or have a high  
18 degree of risk to public health and safety or the  
19 environment.

20 Loan amounts are limited by statute to more than  
21 \$500,000 per project.

22 For the 2005-2006 Fiscal Year cycle, \$630,000 was  
23 available to loan for -- from the Integrated Waste  
24 Management account. The notice of funding availability  
25 was sent to over 3,000 interested parties on or before

1 September 19th of 2005.

2 Staff received two applications for landfills  
3 that were ready to close and amounting to \$989,443.

4 The Landfill Closure Loan Program Review  
5 Committee reviewed each of the applications for  
6 eligibility. The one application for Niland Solid Waste  
7 Facility in Imperial County did not meet the minimum  
8 eligibility requirements because of deficiency in their  
9 closure funding. Board staff is proceeding with  
10 enforcement procedures for this facility.

11 The review committee then scored the remaining  
12 eligibility application, which was for Neal Road Landfill  
13 in Butte County. The Neal Road landfill is an active site  
14 with a portion still in operation. The county has already  
15 closed part of the unlined portion of the landfill. And  
16 the Landfill Closure Loan Program loan is to effect  
17 complete closure of the landfill that's -- the part that's  
18 unlined.

19 So based upon Butte County's passing score and  
20 the priority points, Board staff recommends approving  
21 Resolution No. 2006-60, which fully funds the Landfill  
22 Closure Loan Program loan for the Neal Road Landfill in  
23 Butte County for a total of \$500,000.

24 This concludes my presentation.

25 CHAIRPERSON MULÉ: Thank you, Bridget.

1 Do we have any questions for Bridget?

2 COMMITTEE MEMBER PEACE: I have a couple  
3 questions.

4 When you say the 500,000 maximum per site is in  
5 statute, but how do we establish the funding level?

6 DEPUTY DIRECTOR LEVENSON: That is something  
7 that's in the annual budget process that's being proposed  
8 to the Governor and then acted on by the Legislature. So  
9 it's a specific allocation for that loan account.

10 COMMITTEE MEMBER PEACE: So if both of these had  
11 been approved but we only still have enough in the fund to  
12 close one until -- when, till the next budget?

13 MS. BROWN: That's correct. One would be fully  
14 funded. And based upon the priority points, we would  
15 award the one who had the most points, to fully fund them,  
16 and then the rest would get the remaining funds.

17 COMMITTEE MEMBER PEACE: If we knew that we  
18 had --

19 DEPUTY DIRECTOR LEVENSON: We could work with the  
20 second -- if there had been a second lower rank but still  
21 passing application, we would check with them to see if,  
22 you know, part of the project could be done. But probably  
23 they would have to go to the following year.

24 COMMITTEE MEMBER PEACE: So do we ever ask -- if  
25 we knew we had things like this coming up that would be

1 over what we put in the fund, do we ever work in our  
2 budget to ask for more spending authority?

3 DEPUTY DIRECTOR LEVENSON: Well, this is the  
4 second year that we've had this fund. Last year we  
5 were -- yeah, we were close to being fully subscribed last  
6 year. This year, you know, we have the second  
7 application, that if it had been eligible, would have put  
8 us over. But, you know, we haven't come to that situation  
9 yet.

10 COMMITTEE MEMBER PEACE: And also in reading  
11 through it, it says that the groundwater was showing  
12 leachate and landfill gas constituents. But under the  
13 project it just says that they put in a gas collection  
14 system.

15 Do they have a leachate collection system, and  
16 what's being done about that?

17 ENFORCEMENT ASSISTANCE & FACILITY COMPLIANCE LOAN  
18 SECTION SUPERVISOR MARKIE: I'm Sue Markie.

19 They do have a leachate collection system.  
20 What's happening though, they fall under violation with  
21 our regulations because of the landfill gas violations.  
22 So that's what triggers our concern. But the Water Board  
23 has them on separate cleanup orders for the leachate and  
24 the -- well, mainly the leachate.

25 COMMITTEE MEMBER PEACE: So if they had to like



1 improve their leachate system or something so they weren't  
2 getting leachate to the groundwater --

3 ENFORCEMENT ASSISTANCE & FACILITY COMPLIANCE LOAN  
4 SECTION SUPERVISOR MARKIE: Well, the active area has its  
5 own separate leachate collection system. And this older  
6 unlined portion is why it needs to be closed properly, so  
7 that the water doesn't percolate down through. Because  
8 it's unlined, so basically it would impact the  
9 groundwater.

10 But the whole landfill has a leachate collection  
11 system. So it's kind of sub -- it's a sub-area is the  
12 reason why it needs to be closed.

13 COMMITTEE MEMBER PEACE: Yeah, I realize it needs  
14 to be closed.

15 And then back to the Niland one that was  
16 ineligible. It sounds like one we'd want to also get  
17 closed. And you said that you have them on some sort of  
18 an enforcement order?

19 MS. BROWN: That's correct.

20 COMMITTEE MEMBER PEACE: What does that entail?

21 MR. CASTLE: Hell. My name's Richard Castle, and  
22 I work in the Financial Assurances Section at the Board.

23 We currently have Imperial County on an  
24 enforcement order for a number of facilities that they  
25 have that were out of compliance with the financial

1 assurance demonstration. They have been working toward  
2 compliance in all of those. Niland happens to be one that  
3 they are still deficient in, not only deficient in their  
4 funding, but they are deficient in the requirements of the  
5 order they're currently under. And we've been working  
6 with them to get that into compliance. And that hasn't  
7 happened, so we will be taking additional enforcement  
8 which could, depending on the will of the Board,  
9 ultimately lead to penalties as well as their back  
10 payments, because that is one of the options the Board has  
11 when we follow through on enforcement.

12 But they're under an enforcement order. They've  
13 been making payments for the last three years under that  
14 enforcement order. But they have not made their annual  
15 payment on Niland. So Niland is deficient. They were  
16 supposed to make a deficiency payment toward themselves.  
17 It's their fund. But we gave them a total of I believe  
18 five years on Niland to come into compliance. They've  
19 been making the required payments for their arrears, but  
20 they did not make their payment for their normal annual  
21 payment. So that's why they're deficient.

22 COMMITTEE MEMBER PEACE: Do we have any idea when  
23 they will be able to make that payment so they would be  
24 eligible to --

25 MR. CASTLE: Actually we made a number of phone

1 calls when they put the application in, saying, "Can't you  
2 find the money somewhere?" Because if you're funded  
3 correctly -- not fully funded, but funded adequately, as  
4 the regulations require, you will then be able to get a  
5 score under this process. And they weren't able to come  
6 up with the money. So, no, I don't have any idea at this  
7 point.

8 We are working with them, and I've had a number  
9 of conversations with them. But they're not -- they  
10 aren't just overflowing with cash, so it's kind of  
11 difficult for them to come into compliance.

12 COMMITTEE MEMBER PEACE: You know, it sure would  
13 be nice. It sounds like it's one that we'd want to get  
14 closed also.

15 Okay. No further questions.

16 CHAIRPERSON MULÉ: Thank you, Board Member Peace.

17 And my understand -- I was in Imperial County a  
18 few years back when -- in a previous life. And my  
19 understanding with that situation is that there are a  
20 number of smaller landfills that need to be closed, but  
21 their financial assurance mechanisms weren't in place  
22 because they don't have the money to close them. And so  
23 they are in a predicament. Not only for this landfill,  
24 but there's several landfills, as I understand, in the  
25 county, smaller landfills that need to be closed. They're

1 unlined.

2 But, again, I'm glad to see that staff is working  
3 with them to make sure these financial assurance  
4 mechanisms are in place. But I just want to make sure  
5 though that we do stay on top of it, because, again, I've  
6 been down there, I've seen, you know, the situation, and  
7 we really do need to get those landfills closed as quickly  
8 as possible and as safely as possible.

9 BOARD CHAIRPERSON BROWN: I have a question.

10 CHAIRPERSON MULÉ: Yes.

11 BOARD CHAIRPERSON BROWN: Are there other  
12 programs, Howard, that we can use to help these smaller  
13 landfills that we know need to be closed because they are  
14 unlined? And are they posing a public health and safety  
15 threat?

16 DEPUTY DIRECTOR LEVENSON: Ms. Brown, we're not  
17 aware of any other program. We certainly have this one,  
18 which is relatively new. And it'll be available --  
19 presuming the funding is available next year, and this  
20 facility does come into compliance, they could apply  
21 again. But I don't know of any other similar program that  
22 would provide loans for closure.

23 CHAIRPERSON MULÉ: Any other -- I'd like to  
24 recognize Board Member Danzinger. Good morning. And  
25 thank you for being here.

1 COMMITTEE MEMBER PEACE: Can I ask one more  
2 question. Saying they haven't made that payment so  
3 they're ineligible. Can you tell -- how much is that  
4 payment they haven't made? What are we talking about,  
5 hundreds -- a hundred thousand dollars, a million dollars?  
6 I mean --

7 MR. CASTLE: Actually what they're deficient  
8 comes to a total of 334,000, and that's going to go up --  
9 it's a little bit more than that. And that'll go up in  
10 May because their next payment -- and, again, these  
11 payments aren't to us. They're payments to their closure  
12 fund. But their next payment's due in May. So --

13 BOARD MEMBER DANZINGER: This is a poor county.  
14 I don't know that we're ever going to -- I mean that  
15 doesn't even qualify as a long-term plan for payment. I  
16 don't see that happening any time in their future.

17 I wish there was something else that we could do  
18 or something, because, you know, for the health and safety  
19 risk to be prolonged because of financial considerations  
20 is just -- it's frustrating.

21 CHAIRPERSON MULÉ: Okay. Do we have a motion?

22 COMMITTEE MEMBER PEACE: Okay. I'd like to move  
23 Resolution No. 2006-60.

24 CHAIRPERSON MULÉ: And I'll second that.

25 Donnell, would you please call the roll.

1 SECRETARY DUCLO: Members Peace.

2 COMMITTEE MEMBER PEACE: Aye.

3 SECRETARY DUCLO: Mulé?

4 CHAIRPERSON MULÉ: Aye.

5 And we're going to hold that open until Board  
6 Member Wiggins gets here.

7 Okay. Thank you very much. Thank you all.

8 Thanks, Bridget and Sue.

9 Our next item is Committee Item C, Board Agenda  
10 Item 6.

11 DEPUTY DIRECTOR LEVENSON: Thank you, Madam  
12 Chair.

13 This item is consideration of a Revised Full  
14 Solid Waste Facilities Permit for the Buena Vista Drive  
15 Sanitary Landfill in Santa Cruz County.

16 Mr. Randy Friedlander will make this  
17 presentation.

18 As you'll hear or probably are already aware,  
19 this is a situation where we as the Board are acting as  
20 the enforcement agency for this jurisdiction.

21 CHAIRPERSON MULÉ: Good morning.

22 MR. FRIEDLANDER: Good morning, Madam Chair and  
23 Committee members.

24 The Buena Vista Drive Sanitary Landfill is an  
25 existing facility located approximately three miles

1 northwest of the City of Watsonville. The surrounding  
2 land use includes rural, residential and agricultural to  
3 the north and east; a Sheriff's rehabilitation facility  
4 and migrant farm worker housing to the south; Harkins  
5 Slough to the east; and a solid waste disposal site at the  
6 City of Watsonville landfill and agricultural open space  
7 to the west. It is owned by the County of Santa Cruz and  
8 operated by the County Department of Public Works.

9           The landfill is currently permitted for a peak of  
10 838 tons per day, with a 2 percent annual increase  
11 thereafter. The landfill currently accepts an average of  
12 400 tons per day for disposal and has received a maximum  
13 of 560 tons per day.

14           The proposed changes associated with this permit  
15 revision include the use of Posi-shell material, which is  
16 a spray-applied cementitious material as an approved  
17 alternate of daily cover, the operation of a new landfill  
18 gas cogeneration facility, and the addition of a  
19 construction and demolition and inert debris processing  
20 operation.

21           The proposed permit is consistent with and  
22 supported by the California Environmental Quality Act  
23 analysis, the environmental impact report of April 1985,  
24 technical addendums of August '91 and December '99.

25           The facility completed a one-year demonstration

1 project to use Posi-shell as an ADC prior to the adoption  
2 of the new ADC regulations. The County Planning  
3 Department acting as lead agency for CEQA issued a notice  
4 of exemption for the project. The EA monitored the  
5 application and performance of the Posi-shell for the  
6 duration of the project.

7           The project demonstrated that the alternative  
8 material and thickness controlled vectors, fires, odors  
9 blowing litter and scavenging without presenting a threat  
10 to human health and the environment.

11           A cogeneration facility once operated at the  
12 landfill and was decommissioned in 1987. Construction of  
13 a new cogeneration facility was completed in December 2005  
14 and will use newer technology to capture methane and  
15 produce electricity.

16           The facility will provide an advantage for power  
17 consumers by balancing out energy transfer during high  
18 demands and during outages. Energy recovery systems for  
19 methane generation are described on page 102 of the  
20 facility's EIR.

21           Construction and demolition and inert debris have  
22 been an existing waste stream at the landfill. The  
23 addition of the processing operation is consistent with  
24 the goals of resource recovery, which is described on page  
25 95 of the facility's EIR.



1 Earlier last year the operator detected elevated  
2 gas levels at two perimeter probes at the northwest  
3 section of the landfill. The operator complied with state  
4 minimum standards per Title 14 Section 20-919.5 by taking  
5 steps to protect public health and safety and notifying  
6 the EA and implementing a workplan which included  
7 installation of additional extraction wells.

8 The operator also increased the monitoring  
9 frequency from quarterly to monthly. Nevertheless the  
10 facility was eventually added to the Board's inventory on  
11 September 13th, 2005, and the EA issued the required  
12 compliance schedule in the form of a notice and order on  
13 October 14th, 2005, with final compliance deadline of  
14 October 30th, 2006. With the new extraction wells,  
15 compliance was quickly achieved on November 30th, 2005.

16 The EA conducted a public hearing at 6 p.m. on  
17 December 7th, 2005, to satisfy the requirements of AB  
18 1497. The notice of public hearing was published in the  
19 Santa Cruz Sentinel and the Watsonville Register  
20 Pajaronian. Additionally, the notice was mailed to 14  
21 local residents. Seven people attended the meeting.  
22 Questions included dealing with odor, dust and noise. The  
23 EA explained the regulatory conditions and the operator  
24 explained operational methods to deal with these issues.  
25 At the time this item was written the EA had received no

1 correspondence regarding the permit.

2 In summary, Board staff has concluded that all  
3 requirements have been fulfilled and Board staff recommend  
4 to the Board to adopt Resolution No. 2006-59, concurring  
5 with the issuance of Solid Waste Facilities Permit No.  
6 44-AA-0004.

7 Mr. Patrick Matthews, the County's Solid Waste  
8 and Recycling Division Manager, is here if you have any  
9 questions regarding these issues as well.

10 CHAIRPERSON MULÉ: Thank you very much.

11 Do we have any questions on this one?

12 Board Member Peace.

13 COMMITTEE MEMBER PEACE: No, I don't have any  
14 question. Just reading it over, it just sounds like they  
15 were just on top of things and they got their gas control,  
16 everything under control at almost a year ahead of time.  
17 So that's great. And I'm also happy to see that they had  
18 their 1497 public hearing.

19 CHAIRPERSON MULÉ: Any other questions?

20 Board member Danzinger?

21 BOARD MEMBER DANZINGER: Yeah, I want to echo  
22 Member Peace's comments on the gas collection and the  
23 1497; also the C&D operation.

24 I am curious. Can somebody describe to me this  
25 food material research compost operation? I'm curious

1 about that, very interested.

2 MR. FRIEDLANDER: Okay. We'll ask Mr. Matthews  
3 to answer you. He really knows a lot about that.

4 BOARD MEMBER DANZINGER: Thank you.

5 MR. FRIEDLANDER: Because it's a relatively new  
6 operation.

7 MR. MATTHEWS: Good morning, Board members.

8 CHAIRPERSON MULÉ: Good morning. Would you state  
9 your name for the record.

10 MR. MATTHEWS: Yes, Patrick Matthews with Santa  
11 Cruz County Public Works. I'm Recycling and Solid Waste  
12 Services Manager for the county.

13 The Food Waste Compost Project is a demonstration  
14 project, an R&D project at this point. The county is  
15 actively pursuing a siting process for a much larger  
16 regional facility to serve not just the unincorporated  
17 county, which I represent, but also the four cities --  
18 incorporated cities within the county. So this is really  
19 our first foray into food waste composting.

20 We are using a -- what's commonly referred to as  
21 an ag bag style composting program. We do that very  
22 specifically to deal with the issues of vectors and  
23 wind-blown materials and odor. The ag bag system is an  
24 enclosed casing -- plastic casing. There are those of you  
25 I'm sure have seen a number of those around the state.

1           It's a very small scale project. We're only  
2 handling approximately 10 to 20 tons per week. The site  
3 doesn't have space to process much more than that till  
4 we're able to move to a much larger facility.

5           BOARD MEMBER DANZINGER: What do you see as a  
6 long-term plan for this?

7           MR. MATTHEWS: Our long-term plan is to, one,  
8 test this technology for next the couple of years; and  
9 then to move to some other site in the county that's yet  
10 to be determined and expand this composting process to a  
11 much larger scale.

12          BOARD MEMBER DANZINGER: Okay. Well, I want to  
13 commend you and thank you very much for that, because what  
14 we do with food waste in this state is going to have a lot  
15 to do with how far beyond 50 percent we go. It's a big  
16 chunk of the waste stream. And I appreciate it.

17          Thank you.

18          CHAIRPERSON MULÉ: I do have a question, Mr.  
19 Matthews -- sorry -- regarding the C&D processing line.

20          Is that a new line that you're putting in for  
21 processing?

22          MR. MATTHEWS: Yes, it is. And, again, along  
23 with the food waste compost, we're doing this as an  
24 interim measure to address a significant waste stream that  
25 all of us are dealing with, and that's construction and

1 demolition material.

2           This is a portable unit. It consists of a  
3 two-stage shaker screen, a number of feed conveyors, and  
4 then an eight station sorting line. It is portable.  
5 However, we have cited it semi-permanently on top of one  
6 of our inactive landfill sections right now. And we plan  
7 on leaving it there until we can complete our siting  
8 study. And, again, along with the composting facility, we  
9 are looking for adjacent property or new property  
10 somewhere else in the county to establish a full scale  
11 materials recovery and processing operation to support our  
12 landfill diversion efforts.

13           CHAIRPERSON MULÉ: Thank you. And do you have  
14 any -- have you done any calculations on your estimated  
15 diversion as a result of this C&D processing facility?

16           MR. MATTHEWS: Yeah. Currently we're handling  
17 approximately 4 to 500 tons per day -- I mean -- I'm  
18 sorry -- per month. We have a projected goal this year of  
19 up to a thousand to 1200 tons per day. I'm sorry --

20           CHAIRPERSON MULÉ: Per month.

21           MR. MATTHEWS: Excuse me. Per month.

22           CHAIRPERSON MULÉ: Good.

23           And thank you for being flexible in terms of your  
24 diversion programs. That's very good that you're working  
25 on that. You're recognizing your waste streams and then

1 dealing with them, so we appreciate that.

2 MR. MATTHEWS: Thank you.

3 CHAIRPERSON MULÉ: Are there any other questions?

4 Yes.

5 BOARD MEMBER DANZINGER: Just for staff.

6 How long have we been the EA for this  
7 jurisdiction?

8 MR. FRIEDLANDER: Since 1992.

9 BOARD MEMBER DANZINGER: Okay. I mean how long  
10 do we expect to? I'm just curious about the standard  
11 policy on these things. I mean do we -- are they  
12 indefinite? Are they open-ended? Do we establish a goal  
13 or a milestone at which point the responsibility shifts  
14 back to an LEA or --

15 ENFORCEMENT ASSISTANCE & FACILITY COMPLIANCE LOAN  
16 SECTION SUPERVISOR MARKIE: We have a memorandum of  
17 understanding and an agreement with the county to perform  
18 the EA duties. And this is -- will go on until such time  
19 the Board deems that --

20 BOARD MEMBER DANZINGER: So it was the Board's  
21 intention at the time that it would be a permanent  
22 situation -- or at least an indefinite situation or --

23 DEPUTY DIRECTOR LEVENSON: There are a number of  
24 jurisdictions who have for one reason or another opted not  
25 to designate an LEA that -- local enforcement agency in

1 their jurisdiction that would then be certified by the  
2 Board and act on our behalf as the LEA. And Santa Cruz  
3 County was one of those.

4 They certainly could take the initiative at any  
5 time to have their own LEA program designated locally and  
6 bring it to the Board for certification. But at this  
7 point it would be an ongoing situation.

8 As Sue mentioned, we do charge for our services,  
9 so there are fiscal implications to local jurisdictions  
10 when we are acting as the EA for them.

11 BOARD MEMBER DANZINGER: Okay. Just curious.

12 Thanks.

13 CHAIRPERSON MULÉ: Thank you, Board Member  
14 Danzinger. I had those same questions a few years back  
15 when I first came on the Board, yeah. So very interesting  
16 you're asking similar questions.

17 With that, do we have a motion?

18 COMMITTEE MEMBER PEACE: Okay. I would like to  
19 move Resolution No. 2006-59.

20 CHAIRPERSON MULÉ: And I will second that.

21 And, Donnell, would you call the roll please.

22 SECRETARY DUCLO: Members Peace?

23 COMMITTEE MEMBER PEACE: Aye.

24 SECRETARY DUCLO: Chair Mulé?

25 CHAIRPERSON MULÉ: Aye.

1           And, again, we'll hold this for further vote by  
2 Board Member Wiggins when she arrives.

3           Okay. With that, thank you both very much.

4           And our next item is Committee Item D, Board  
5 Agenda Item 7.

6           DEPUTY DIRECTOR LEVENSON: Okay. Agenda Item 7,  
7 Items D, is Consideration of a Revised Full Solid Waste  
8 Facilities Permit for Kochergen Farms Composting,  
9 Incorporated, in Kings County.

10           This will be presented by Chris Phillips, who is  
11 one of our very new staffers. So this will be his first  
12 presentation before a committee or the Board.

13           Chris. Good luck.

14           (Laughter.)

15           CHAIRPERSON MULÉ: Good morning, Chris, and  
16 welcome.

17           MR. PHILLIPS: Thank you.

18           CHAIRPERSON MULÉ: We won't be too hard on you.  
19 Promise.

20           MR. PHILLIPS: I appreciate it.

21           Good morning, Madam Chair and Committee members.

22           I would first like to clarify for the record, on  
23 page 1 of the agenda item, the title now reads "Kochergen  
24 Farms Composting, Inc.," as it officially reads on the  
25 current and proposed permit.



1           The word "farm" was inadvertently left out of the  
2 title that was noticed.

3           The Kochergen farms compost facility began  
4 operations under a standard permit in April of 2000. The  
5 existing full solid waste facilities permit was issued on  
6 December 2nd of 2003.

7           The proposed permit revision would allow for two  
8 major changes: An increase in acreage from 60 acres to  
9 160 acres. And change number 2, a change in hours of  
10 operation from 5 a.m. to 8 p.m., Monday through Saturday;  
11 the change would be to 24 hours per day, 7 days per week.  
12 Exceptions are Christmas Day, Thanksgiving Day and New  
13 Years Day, on which the facility will be closed.

14           According to the operator, these changes are  
15 being implemented in order to use a larger surface area  
16 pad for their product, while amount of received and  
17 processed material will remain the same. Also the  
18 construction of a field shop will assist in maintenance of  
19 the composting equipment on a paved surface.

20           The change in hours will allow local farmers to  
21 have access to the facility over a greater time period,  
22 which is advantageous during seasonal farming conditions.

23           There have been two violations of state minimum  
24 standards for this year: One for litter control and the  
25 other was for fire prevention protection and control. The

1 operator and the LEA both worked together to rectify these  
2 issues and found no violations of the state minimum  
3 standards during the pre-permit inspection conducted last  
4 week on March 27th.

5 Therefore, staff has amended the agenda item to  
6 reflect the compliance with the state minimum standards  
7 and report of the compost information is acceptable, and  
8 revise the item and post it on the web.

9 Staff, therefore, recommends that the Board adopt  
10 Option 1, the Board concur with the issuance of the  
11 proposed permit as submitted by the local enforcement  
12 agency, and adopt Board Resolution No. 2006-56, concurring  
13 with the issuance of the Solid Waste Facility Permit  
14 16-AA-0022.

15 This concludes staff's presentation.

16 James Donaben, the compliance manager for  
17 Kochergen farms, and Mike Kochergen, the owner, and myself  
18 would be happy to answer any questions.

19 And the LEA I believe is stuck in traffic. So I  
20 don't think he's here.

21 CHAIRPERSON MULÉ: Thank you very much, Chris.  
22 Great report.

23 Do we have any questions for Chris or for any of  
24 the operators or owners?

25 Board Member Danzinger.

1           BOARD MEMBER DANZINGER: This is just another  
2 curiosity question.

3           One of the changes goes from Monday-Saturday, 5  
4 to 8, to 24/7. How much of the traffic -- existing  
5 traffic do we think will shift to those off hours? Or  
6 will there be new traffic or...

7           PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

8           This is Mark de Bie with Permitting and  
9 Inspection Branch.

10          I think the operator would probably be the best  
11 one to give you an idea of what the new situation would be  
12 with the new hours.

13          BOARD MEMBER DANZINGER: Thanks.

14          CHAIRPERSON MULÉ: Thank you for being here.  
15 Would you please state your name for the record.

16          MR. DONABEN: Good morning, Madam Chair --

17          CHAIRPERSON MULÉ: Good morning.

18          MR. DONABEN: -- members of the Board. My name  
19 is James Donaben D-o-n-a-b-e-d. My address is 33915  
20 Avenal Cutoff Road in Avenal, California. I am the  
21 compliance manager for Kochergen Farms Composting.

22          There will not be -- we do not anticipate  
23 receiving material in the after-hours time. The purpose  
24 for the 24-hour operation is the fact that the organic  
25 compost that we do sell and apply on our own lands

1 efficiently must be moved during the compost season. And  
2 we don't expect any additional impacts in the evening  
3 hours with the traffic, Member Danzinger.

4 BOARD MEMBER DANZINGER: Okay, thanks.  
5 Appreciate it.

6 CHAIRPERSON MULÉ: Any other questions?  
7 Board Member Peace.

8 COMMITTEE MEMBER PEACE: It says you're going  
9 from 60 acres to 160 acres but no increase in tonnage.

10 MR. DONABEN: That is correct.

11 COMMITTEE MEMBER PEACE: Do you foresee in the  
12 future that you're going to want to be taking in more  
13 tonnage that you're hope --

14 MR. DONABEN: At this point we are currently  
15 permitted for 1,000 tons per day. In the event that we  
16 do -- are fortunate enough to receive more material, we do  
17 understand that we have to go through the conditional use  
18 permit process and also come back to the Board for a  
19 revised permit. The reason for the expansion request is  
20 to increase operational efficiency, be able to space our  
21 material in a more efficient manner.

22 COMMITTEE MEMBER PEACE: It's great that you had  
23 those extra acres to work with.

24 MR. DONABEN: We will, that's correct.

25 COMMITTEE MEMBER PEACE: Okay. Thank you.

1           CHAIRPERSON MULÉ: Very good.

2           Any other questions?

3           Thank you very much for being here. We really  
4 appreciate all of you being here for this.

5           MR. DONABEN: Thank you.

6           I also would like to indicate that Chris did an  
7 excellent job when he came out and walked the site.  
8 Virginia Rosales, who I know that you're very familiar  
9 with, and I and Mr. Hommerding from the LEA actually  
10 walked every inch of that site. It was a windy, rainy  
11 day. And I must admit he asked very, very good questions.  
12 So I'm looking forward to having him be our agency  
13 representative.

14          Thank you.

15          CHAIRPERSON MULÉ: Well, Thank you.

16          All right. Good job, Chris.

17          BOARD MEMBER DANZINGER: Yeah, the first  
18 presentation doesn't get any better than this, does it?

19          (Laughter.)

20          MR. PHILLIPS: Yeah, let's go home. No more  
21 questions.

22          CHAIRPERSON MULÉ: Okay. Do we have a motion?

23          COMMITTEE MEMBER PEACE: Yes. Again, I was glad  
24 to see they had their 1497 public hearing, even though  
25 apparently no one came.

1           And good job, Chris.

2           And with that, I would like to move Resolution

3 No. 2006-56 revised.

4           CHAIRPERSON MULÉ: And I will second that.

5           And, Donnell, would you call the roll.

6           SECRETARY DUCLO: Members Peace?

7           COMMITTEE MEMBER PEACE: Aye.

8           SECRETARY DUCLO: Chair Mulé?

9           CHAIRPERSON MULÉ: Aye.

10          And we'll hold the vote open for Board Member

11 Wiggins when she arrives.

12          And thank you again, Chris. Great job.

13          Our next item is Committee Item E, Board Agenda

14 Item 8.

15          Howard.

16          DEPUTY DIRECTOR LEVENSON: Thank you.

17          This item is -- get my glasses on --

18 Consideration of a New Full Solid Waste Facilities permit

19 for American Waste Industries, in the City of Los Angeles.

20          There have been a number of developments on this

21 particular permit application late last week and we also

22 received a letter this morning. So we're going to do our

23 best to bring you up to speed with the new information and

24 some of the -- the letter that we've just had a chance to

25 scan that Donnell is passing out to you now.

1           So I'll start off -- Ms. Kitty Oliver will make  
2 the presentation. And then she'll pass it on to Mark de  
3 Bie to give you a little bit more update on the recent --  
4 the letter that we just received.

5           CHAIRPERSON MULÉ: I'm just wondering if we  
6 shouldn't take a moment and give us all an opportunity to  
7 review the letter, if you don't mind.

8           What's your preference?

9           Yeah, again, receiving something at this late  
10 date, my preference would be to have an opportunity to  
11 read it, and then we can discuss it. So if we could just  
12 take a couple minutes and do that, I would prefer to do  
13 that.

14          Thank you.

15          And let me recognize Board Member Wiggins has  
16 just arrived.

17          Good morning.

18          COMMITTEE MEMBER WIGGINS: Good morning.

19          Can they call a roll for me?

20          CHAIRPERSON MULÉ: Yes, we can.

21          And we are on Agenda Item 8. We have voted on  
22 Items 5, 6 and 7. And so what we can do, maybe right now  
23 if we can open it up and have Board Member Wiggins vote on  
24 items 5, 6 and 7.

25          Are you prepared to do that?

1 COMMITTEE MEMBER WIGGINS: Yeah, here.

2 SECRETARY DUCLO: Board Member Wiggins is  
3 present.

4 CHAIRPERSON MULÉ: And then we're just going to  
5 call the roll on Item 5.

6 SECRETARY DUCLO: Agenda item 5.  
7 Members peace?

8 CHAIRPERSON MULÉ: We voted already.

9 SECRETARY DUCLO: You voted already.

10 CHAIRPERSON MULÉ: Just so you know, Board Member  
11 Peace and I voted aye on items 5, 6 and 7.

12 COMMITTEE MEMBER WIGGINS: Aye, aye, aye.

13 CHAIRPERSON MULÉ: So --

14 SECRETARY DUCLO: For the record, Member Wiggins  
15 is aye, aye, aye on 5, 6 and 7.

16 Thank you.

17 CHAIRPERSON MULÉ: And that covers it, Elliot?  
18 Just want to make sure legally we're covered.

19 ACTING CHIEF COUNSEL BLOCK: That's fine. And  
20 then I don't know if you wanted to direct whether those  
21 are either fiscal consent or --

22 CHAIRPERSON MULÉ: Yes, Item 5 can be put on  
23 fiscal consent, and Items 6 and 7 can be put on the  
24 consent agenda.

25 And so we are now on Item 8.



1           And, Board Member Wiggins, just so you know,  
2 we've received a number of documents just as you were  
3 walking in. And so we were going to just take a few  
4 minutes and review those documents.

5           (Thereupon the Board read the documents.)

6           CHAIRPERSON MULÉ: Okay. Thank you all for  
7 waiting. If everyone is ready -- are you ready?

8           Okay. Then let's proceed.

9           First of all, I do want to reflect that we've  
10 received several items -- several letters, and I will just  
11 read them into the record. Not the letters, but who  
12 they're from. And then we could ex parte them that way.

13           The first letter I received is from Cynthia  
14 Despres, who's the President of the East Valley Coalition.

15           Second letter is from Jonathan Weissglass, Linda  
16 Lye, Jan Chatten-Brown and Doug Carstens representing  
17 Altshuler, Berzon, Nussbaum, Rubin & Demain as well as  
18 Chatten-Brown and Carstens.

19           The third letter that we received is from  
20 Assembly Member Cynthia Montaez.

21           Those are read into the record.

22           And with that, if staff could proceed with their  
23 presentation, I'm sure -- we've got several speakers and  
24 I'm sure the Committee members have quite a few questions.

25           So with that, Mark, do you want to take this?

1           Good morning.

2           PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

3           Mark de Bie with Permitting and Inspection, just  
4 to ask if we should proceed in this particular manner.

5           Kitty's ready to do the standard presentation  
6 from Board staff. Towards the end of that she'll defer to  
7 me and I'll review, the best we can, on staff's take on  
8 the letters that we have read through.

9           Just to note, you -- I believe you just mentioned  
10 an East Valley Coalition letter.

11          CHAIRPERSON MULÉ: Yes.

12          PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

13          We -- staff have not seen that letter as yet.

14          So --

15          CHAIRPERSON MULÉ: Can we -- we'll get copies for  
16 you.

17          PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

18          We've seen the other two, but not that particular  
19 one.

20          CHAIRPERSON MULÉ: We'll make sure you get copies  
21 of that.

22          PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

23          And then once I finished, unless we see new  
24 information coming at us, we'll be prepared to make a  
25 recommendation and move forward.

1           CHAIRPERSON MULÉ:   Okay, great.

2           Well I would like for us to proceed with the  
3 item. I think that we need to hear it as you were ready  
4 to present it. We will also -- again, as I mentioned, we  
5 have a number of speakers here. And so maybe they can  
6 enlighten us on some of these new developments.

7           So with that, if you could please proceed.

8           Thank you.

9           MS. OLIVER:   Good morning, Madam Chair and Board  
10 members.

11           For the record, I have a number of changes. As  
12 we've noted, a lot of information's come in.

13           I have, first of all, three changes for the  
14 proposed permit.

15           On page 2 of the proposed permit under "Finding,  
16 13E," the first line should read: "The Los Angeles City  
17 Planning Department prepared and circulated mitigated  
18 negative declaration," and then gives the numbers.

19           The second item in a proposed permit, on page 2,  
20 Part 15, the mitigated negative declaration date should  
21 read: "Dated: December 8th, 2004. Adopted: March 30th,  
22 2006."

23           The third item on the permit, on page 2, Part 15,  
24 the identification in the nondisposable facility element  
25 should be dated November 2004.

1           You should have received a copy of this proposed  
2 permit. And there are extra copies in the back of the  
3 room.

4           CHAIRPERSON MULÉ: Yes, the Committee does have a  
5 copy of the updated permit.

6           Thank you for pointing out those changes.

7           MS. OLIVER: Okay. I also have changed in the  
8 agenda item.

9           On page 8-3, the cease and desist order was  
10 incorrectly referenced as number 04-0. The correct  
11 reference is 04-01.

12          CHAIRPERSON MULÉ: I'm sorry. What wage was  
13 that?

14          MS. OLIVER: 8-3.

15          CHAIRPERSON MULÉ: Thank you.

16          MS. OLIVER: The next item. Since the agenda  
17 item was written the LEA has reinspected the facility and  
18 found no violations of the state minimum standards. This  
19 new information will be reflected in the two following  
20 changes: On page 8-5, the Summary of Board Findings  
21 table, the consistency with state minimum standards will  
22 be marked "Acceptable".

23          On page 8-6, the continuation of bullet 3 that is  
24 part of that table, Consistency with State Minimum  
25 Standards, a final sentence will be added: "On March

1 13th, 2006, the LEA's inspection of the facility noted no  
2 violations of state minimum standards."

3 Finally, the mitigated negative declaration has  
4 been adopted. This new information will be reflected in  
5 the two following changes: On pages 8-5, the Summary of  
6 Board Findings table, the California Environmental Quality  
7 Act will be marked "Acceptable"; and on page 8-6, section  
8 B, Environmental Issues will be changed to reflect an  
9 adoption date of March 30th, 2006.

10 And that's all for the changes.

11 In addition to the facility background staff have  
12 outlined in the agenda item, the proposed permit for  
13 American Waste Industries would allow the following: A  
14 total of 1500 tons per day of municipal waste;  
15 construction, demolition and inert materials; and woody  
16 wastes. Receipt of materials will be Monday through  
17 Sunday, 7 a.m. to 8 p.m.; and the permitted traffic volume  
18 will be 267 vehicles per day.

19 I would now like to refer to Mark de Bie, who's  
20 going to discuss the letters we've received.

21 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

22 Thank you, Kitty.

23 So now staff have received and quickly reviewed  
24 all of the letters that were just recently received. I  
25 think what I'm prepared to do right now is to just review

1 them and give you staff's initial take on them; certainly  
2 wait to hear from the speakers to see if there's any  
3 additional information. And if it's the pleasure of the  
4 Chair, perhaps we'll wait for our formal recommendation  
5 until that's done.

6 If you want to have our recommendation before  
7 that, that's fine too. But it will probably be --  
8 potentially may change depending on the testimony we hear.

9 CHAIRPERSON MULÉ: Right. Why don't we wait  
10 until we hear all the testimony from the speakers and then  
11 we'll go from there.

12 Thank you.

13 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

14 So then I will just give you staff's review on  
15 this. Certainly if Michael Bledsoe with the Legal Office  
16 has additional information based on his review, I'll ask  
17 him to jump in whenever appropriate.

18 And then when I'm finished, we'll hear from the  
19 speakers and then staff will make a recommendation. Very  
20 good.

21 The first letter that I'll speak to is the April  
22 6th -- dated April 6th letter from Assembly Member Cindy  
23 Montaez' office. It regards the public hearing  
24 requirements.

25 As staff I believe indicated, the LEA did not

1 hold what's referred to as a 1497 hearing on this permit,  
2 as it's being viewed as a new permit. And the current  
3 read by staff as well as LEAs is that these hearings are  
4 required for revisions to permits.

5 I'll point out that the proposed regulations --  
6 and here's a shout out for the workshop this afternoon  
7 about those regulations -- do require a 1497 hearing for  
8 exactly this kind of situation, moving to a new permit.  
9 So once those regs are in place, if they are in the same  
10 form they are now, this kind of situation would have  
11 required through regulation a 1497 hearing. But at the  
12 moment none were conducted for this particular situation.

13 Certainly it's always the option for an LEA to  
14 conduct whatever hearings they want relative to a  
15 facility.

16 So, again, staff's initial take is that that  
17 seemed to be the main issue brought out by the assembly  
18 member.

19 Relative to the East Valley Coalition, one of the  
20 issues they raised was their request to be notified  
21 relative to this project. I'm going to need to defer to  
22 the LEA. Perhaps they'll be able to speak to that issue  
23 about what notices they received. Right now I'll indicate  
24 that, per regulation, if the LEA receives a written  
25 request to be noticed for any permit applications, then

1 they must be responsive to that. So I -- staff does not  
2 have information relative to what form the request from  
3 the East Valley Coalition may have been. If it was  
4 written and the LEA did not provide them a notice, then  
5 there's an issue there. That would not factor into the  
6 Committee's decision today. It's not a factor within the  
7 Board's authority to not concur on a permit relative to  
8 actions or inactions of the LEA to properly notice people  
9 relative to a pending application.

10 CHAIRPERSON MULÉ: Right. Well I do see that the  
11 LEA is here. So hopefully, Mr. Tsuda, you will address  
12 that for us?

13 Thank you.

14 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

15 And then the rest of the letter does indicate the  
16 Coalition's understanding of the project and speaks to  
17 mitigation measures. It's staff's understanding that  
18 through action of the L.A. City Attorney, there was a -- I  
19 believe it's referred to as a stipulated judgment, that  
20 required the operator to implement improvements to the  
21 site. The list contained on page 2 of the East Valley  
22 Coalition's letter seems to be -- to match staff's  
23 understanding of what those improvements were.

24 That agreement basically was ahead of the CEQA  
25 process that was conducted by the Planning Department



1 relative to the site, and staff's understanding that those  
2 site improvements were taken into consideration during the  
3 CEQA process, and basically ended up being mitigation  
4 measures relative to the site and the mitigated Neg Dec  
5 that was developed.

6 I think that covers the issues. Again -- and we  
7 just read it. So I may have missed something --

8 CHAIRPERSON MULÉ: So have we, Mark.

9 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:  
10 -- and I apologize for that.

11 And then relative to the April 3rd letter that  
12 staff received this morning signed by I believe Linda Lye,  
13 that Board Member Mulé identified. It's staff's reading  
14 that issues relative to whether an EIR was appropriate for  
15 the site versus a mitigated Neg Dec were highlighted,  
16 questioning whether or not that document had been actually  
17 adopted by a local lead agency, questions relative to  
18 compliance with state minimum standards, the question  
19 about a hearing and no hearing, and then several comments  
20 relative to just the quality of the environmental  
21 documentation.

22 Again, it's staff's understanding that through  
23 the action of the L.A. City Attorney through the  
24 stipulated judgment that site improvements were required  
25 to reduce, if not prevent, significant environmental

1 impacts and those were incorporated into the mitigated Neg  
2 Dec. And so all those mitigations were accepted by the  
3 applicant. And at the end of that analysis, it was  
4 determined that there were no significant environmental  
5 impacts. And so in that situation, a mitigated Neg Dec is  
6 appropriate.

7 Staff doesn't see any information at least in the  
8 initial read to indicate that there may be new information  
9 relative to potential impacts that had not been addressed,  
10 at least not in this letter.

11 The revised permit now indicates that the LEA did  
12 adopt the mitigated Neg Dec last Thursday. And so there  
13 is now information in the record that we have, and we can  
14 provide that certainly to this law firm indicating that as  
15 far as we understand the LEA has formally adopted the  
16 mitigated Neg Dec and made the required findings.

17 As Kitty indicated, there are no current state  
18 minimum standard violations at the site. There were  
19 issues about vector control. They have been addressed.  
20 And the LEA confirmed, and we agree, that there are  
21 no -- now no outstanding state minimum standard violations  
22 at the site.

23 Relative to hearing, I won't repeat myself, but  
24 basically it's staff's view that with the new regs a  
25 hearing would be required, but currently it's not seen as

1 being necessary at this time.

2 And then relative to the quality of the  
3 environmental document, again a quick read of this  
4 document doesn't seem to provide staff with any new  
5 information, additional information that would lead us to  
6 believe that the analysis was not done appropriately or  
7 adequately.

8 So I'll leave it there, and then we'll wait for  
9 speakers. And then staff would maybe need a minute to  
10 confer to see if there's any information that would affect  
11 our recommendation before we formally provide the  
12 Committee with that.

13 CHAIRPERSON MULÉ: Okay. Very good.

14 Thank you, Mark. Appreciate that update.

15 We do have several speakers. And so if you would  
16 come forward and state your name for the record.

17 The first speaker is Cynthia Despres.

18 MS. DESPRES: Hello. My name is Cynthia Despres.

19 And I'm President of the East Valley Coalition. And I'm  
20 also a member of One L.A. And I would like to thank the  
21 Committee for allowing this opportunity to address you.

22 The East Valley Coalition is a local citizens  
23 action group committed to change in the environment of our  
24 community to a healthy, beautiful place to live and raise  
25 our children. We represent a disenfranchised community

1 with a predominantly low income and Latino population.

2           The EVC, East Valley Coalition, offers the  
3 following comments on the proposed project for a new full  
4 solid waste facilities permit with a total capacity of  
5 1500 tons per day:

6           First, the EVC is requesting that the Committee  
7 consider having a special meeting prior to the Board  
8 meeting on April 11th, 2006, to allow adequate review of  
9 the pertinent environmental documents. Even though the  
10 EVC has repeatedly requested, orally and in writing, to be  
11 notified of all projects within our area, the Sun Valley  
12 area, to date we have not received any notifications from  
13 the planning department or from the LEA regarding this  
14 project. The existing CUP was not readily available to  
15 us.

16           We want to work with the CIWMB to achieve results  
17 that benefit the Sun Valley area community. We would like  
18 to include community participation and input in the  
19 decision-making process. This is in support of our  
20 continued position that all projects within Sun Valley  
21 should go through a publish process to enable meaningful  
22 involvement. Meaningful involvement means that  
23 potentially affected community residents have an  
24 appropriate opportunity to participate in decisions about  
25 a proposed activity that will affect their environment

1 and/or health. The concerns of all participants involved  
2 will be considered in the decision-making process.

3 Coming to Sacramento is not feasible for many of  
4 the residents in Sun Valley. Many do not even own cars.

5 Decisions that could negatively affect the health  
6 and quality of life of the families in Sun Valley of are  
7 particular concern to the East Valley Coalition,  
8 especially since Sun Valley has been identified as an  
9 environmental justice improvement zone. Projects within  
10 our area have historically been kept beneath the radar  
11 over and over and over again.

12 We would like to raise the following concerns:

13 Sun Valley is a challenged area that is focusing  
14 limited resources on a major EIR for the Bradley landfill  
15 with a comment period ending April 5th, 2006, this coming  
16 up Wednesday.

17 In addition, within the last couple of weeks we  
18 have had comments period deadlines for two other major  
19 land-use permits within Sun Valley. Actually I think it  
20 was three. This onslaught has raised suspicions that it  
21 is an intentional act to overwhelm the community.

22 It appears American Waste is calling this a new  
23 project rather than a permit revision in order to bypass  
24 certain requirements in regulations.

25 We are concerned also -- this is difficult for us

1 to state. It is frustrating because we're a little  
2 concerned here there might be hidden agendas. I'm not  
3 trying to raise unreasonable suspicions. But in our  
4 community there often have been hidden agendas behind  
5 different projects. So we're just concerned that  
6 decisions concerning this project may indirectly assist  
7 Waste Management in their proposal for a high volume MRF  
8 transfer station at the Bradley landfill site in Sun  
9 Valley. We don't want a Wal Mart effect. We don't want  
10 to get rid of the small businesses to help a giant.

11 We're looking for the cumulative impacts. So  
12 it's -- you know, it's six on one, half a dozen on the  
13 other. We can't win for losing here. So we're just  
14 trying to watch out for our community.

15 We support the proposed mitigation measures, but  
16 are concerned that these measures will not be implemented  
17 in a timely fashion.

18 I did put that "The station will be fully  
19 enclosed on four sides." I just read the documents again.  
20 It said three sides. That's not something we would  
21 support.

22 We are not hear in an attempt, as I said, to shut  
23 the company down or insist on further conditions before  
24 we've had a chance to fully review the project and  
25 timeline.

1           We appreciate the opportunity to submit these  
2   comments for consideration. Please direct any questions  
3   and all future documents related to this project or any  
4   future projects on this site to Cynthia Despres or Ellen  
5   Mackey.

6           Thank you.

7           Oh, I just want to say one last thing.

8           Actually what -- after reading the staff report,  
9   I have to say I am very concerned about the LEA and their  
10   lack of enforcement. So not only is our community getting  
11   more and more waste facilities, but it seems like the  
12   oversight is -- it doesn't get better, it just keeps  
13   getting worse.

14          Thank you.

15          CHAIRPERSON MULÉ: Thank you.

16          Our next speaker is Exiquio Ruiz.

17          MR. RUIZ: Good morning. My name is Exiquio  
18   Ruiz, and I'm a resident from Sun Valley. I have lived in  
19   there actually for 34, 35 years. And I am married and I  
20   have three kids, of which one of them, the middle one, was  
21   born with asthma. And she always asked me, "Why can't I  
22   be the same? Why do I have to be different than the other  
23   kids."

24          I represent the community of Holy Rosary, which  
25   is a church -- a Catholic Church that houses approximately

1 12,500 families; and also represent -- and I'm a leader of  
2 One L.A.

3           And the reason that I'm here is to let you know  
4 that we want to be part of these decisions, we want to be  
5 part of what is going on in our community. We did not  
6 know about this until Friday. And that made it extremely  
7 difficult, you know, for me to be here and for our  
8 leaders -- the other leaders, you know, to be here. And  
9 we wanted to make a public hearing where our community  
10 would be part of this process.

11           American Waste has been in the shadows. So we as  
12 a community of Holy Rosary and One L.A. oppose their  
13 measure at this time until they do hold public hearings.

14           They also are mentioning in the report that they  
15 wanted to increase the amount of traffic to 267 more  
16 trucks from, 400 tons to 1500 tons.

17           If you are familiar with the area of Sun Valley,  
18 you can sympathize with the conditions of our streets.  
19 The pollution -- you know, everything that is around it.  
20 I live half a mile away from Bradley. And I can smell  
21 what everybody ate in the valley everyday, every evening.  
22 It's not now counting the amount of animals they had come  
23 through our neighborhood. And I'm not talking about just  
24 rats. I'm talking about raccoons, skunks and everything  
25 else. Since they closed the adjacent landfill right next



1 to my house, they are start moving out to the neighborhood  
2 looking for food, eating my pets food and everything else.

3 So we are here, you know, to ask you, please help  
4 us. We want to be part of the solution. We don't want to  
5 be part of the problem. We need to be informed of what's  
6 going on.

7 Thank you very much.

8 CHAIRPERSON MULÉ: Thank you, Mr. Ruiz.

9 Our next speaker is Michael Mendez.

10 MR. MENDEZ: Good morning. I'd like to thank the  
11 Board for giving me the opportunity to read into the  
12 record a letter from Assembly Member Cindy Montaez on  
13 this issue. She couldn't be here today because today's  
14 Assembly floor session.

15 "Dear Members of the Permitting and Enforcement  
16 Committee: I am writing to strongly urge you to object to  
17 the solid waste facilities permit for the Sun Valley  
18 Transfer Station, which is located in my 39th Assembly  
19 District.

20 "As documented in the staff report prepared for  
21 the Board's April 11th hearing, there is a long history of  
22 state law violations by this transfer station. The  
23 operator of this facility, American Waste Industries, is  
24 seeking a permit to expand its capacity from 400 tons per  
25 day to 1500 tons per day.

1           "There are two reasons the Board should reject  
2 the permit application:

3           "The first, the local enforcement agency never  
4 held a public hearing on this proposal expansion. I  
5 authored AB 1497, which requires a public hearing when the  
6 operator of a solid waste facility applies for a  
7 significant change in the operation of a facility. The  
8 intents of AB 1497 is to provide a mechanism for public  
9 involvement in agency decisions to allow or disallow such  
10 changes.

11           "The transfer station in Sun Valley currently  
12 receive 400 tons per day. Under this proposed permit its  
13 capacity would increase by 1100 tons per day.

14           "The purpose and intent of AB 1497 is to provide  
15 for public hearings so that the community can have input  
16 into the permitting decisions that will have an impact on  
17 their lives and communities.

18           "Sun Valley is a low income to moderate community  
19 with a large Latino population. The working families in  
20 Sun Valley, my constituents, deserve an opportunity to  
21 participate in the permitting process so that they can  
22 share their views and concerns about any governmental  
23 decision to increase the facility's daily capacity to 1500  
24 tons. They would not have any such opportunity if the  
25 Board approves the permit."

1           In addition, the Waste Board staff reports  
2 numerous violations of state law by the facility.  
3 Violators should not be rewarded with more opportunities  
4 to break the law.

5           "For those reasons I strongly urge you to object  
6 to the issuance of a permit for the Sun Valley Transfer  
7 Station."

8           And I'd like to add a couple caveats to the  
9 opinion of the Assembly Member that's not included in the  
10 letter, just to inform the Board AB 1497 was the first  
11 bill that the Assembly Member introduced back in 2003,  
12 because it was directly regarding the Sun Valley  
13 residents, Bradley landfill and all the waste  
14 industries -- issues that's going on in Sun Valley. So  
15 this was -- the bill was introduced directly to help the  
16 public participation processes of the Sun Valley  
17 residents, which is a large environmental justice  
18 community.

19           And also the staff report said this is mostly  
20 commercial industrial area. But it is a densely populated  
21 area with a lot of children and homes nearby as well.

22           And she does also have concerns over the LEA  
23 process or lack of oversight over this issue and not  
24 providing more opportunities for public involvement.

25           And this is an issue she will closely be

1 watching, and intends if this issue's not rectified to  
2 introduce additional legislation.

3 Thank you.

4 CHAIRPERSON MULÉ: Thank you, Michael.

5 Our final speaker is Linda Lye.

6 MS. LYE: Good morning, Madam Chairwoman and  
7 Board members. Linda Lye on behalf of the International  
8 Brotherhood of Teamsters.

9 I want to apologize for the late submission of  
10 the comments. Normally we would have wanted to get this  
11 information to you well in advance of the hearing so that  
12 you and staff could digest it. But it is precisely  
13 because of the lack of meaningful opportunities for public  
14 notice and comment in the local community that we did not  
15 find out about this proceeding until late last week. And,  
16 therefore, we were not able to pull together our comments,  
17 as we would have liked to have gotten them to you earlier.  
18 So I apologize for that. But the reason for the lateness  
19 is -- precisely goes to one of our concerns, which is  
20 shared by the various other speakers here today, about the  
21 lack of more meaningful opportunities to participate  
22 below.

23 CHAIRPERSON MULÉ: Excuse me. So you are saying  
24 you were unaware of this permit until last Friday?

25 MS. LYE: Until late last week.

1 CHAIRPERSON MULÉ: Friday, Thursday?

2 MS. LYE: Wednesday or Thursday.

3 CHAIRPERSON MULÉ: Okay. Thank you.

4 MS. LYE: There are -- just briefly before I -- I  
5 know you have our comment letter, and there are three main  
6 reasons why we believe that the Board should object to the  
7 issuance of a solid waste facilities permit. But I just  
8 want to briefly address the staff update given.

9 The staff reports stated -- recommended that the  
10 Board should not concur in the permit unless two things  
11 happen: 1) There was verification that the M and D was  
12 properly adopted; and 2) that the state minimum standards  
13 violations had been corrected. Staff then presented the  
14 update showing that last Thursday they finally adopted the  
15 M and D and that a recent inspection showed that the  
16 violations had been cured.

17 All I think this really shows is that on the eve  
18 of scrutiny by your agency, the facility is doing its best  
19 to comply and doing -- with its ongoing obligations. What  
20 speaks a lot louder I think is the years and years and  
21 years of violations that are chronicled in the staff  
22 report. So I don't think we should be overly distracted  
23 by the one-time site inspection that found no rats when  
24 prior to that there had been years and years of  
25 violations.

1           Turning then to the three reasons why the Board  
2 should object to the issuance of a solid waste facilities  
3 permit.

4           First, we believe that an environmental impact  
5 report has been prepared. I understand -- we raised the  
6 separate CEQA issue in our comments that the M and D was  
7 not properly adopted. I understand that argument is now  
8 moot. But, again, we were last week trying to find out  
9 what the status of the M and D was and calling city  
10 agencies. And I'm just stupefied to hear that last  
11 Thursday the M and D was adopted at the very time we were  
12 contacting city agencies trying to figure out the status  
13 of this.

14           In terms of why an environmental impact report is  
15 required in -- an EIR is required in this case and the  
16 Board as a responsible agency has an independent duty to  
17 assess the appropriateness of the environmental review  
18 prepared by the local enforcement agency, staff indicated  
19 that there's no new information that would warrant  
20 challenging the M and D determination. That's not the  
21 correct legal standard. The Waste Board is a responsible  
22 agency on this project. And as a responsible agency --  
23 I'm reading from CEQA Guidelines 15096(a) -- "the  
24 responsible agency complies with CEQA by considering the  
25 EIR or negative declaration prepared by the lead agency

1 and by reaching its own conclusions on whether and how to  
2 approve the project involved." Therefore, you have an  
3 independent duty to assess the correctness of the  
4 determination that no EIR was required. And for the  
5 reasons that we discussed in greater detail in our comment  
6 letter, that conclusion that no EIR was required is  
7 incorrect.

8 As we explained in our comments, the project is  
9 likely to have significant air quality, aesthetic hazards  
10 and noise impacts. And the proposed mitigation is simply  
11 inadequate. Again, I think it's very critical when  
12 looking at the proposed mitigation to look at this  
13 operator's long history of violating state minimum  
14 standards governing the operation of solid waste  
15 facilities. In addition, the operator has been repeatedly  
16 cited for numerous air quality violations relating to  
17 fugitive dust and creating a public nuisance.

18 Mitigation measures will do absolutely nothing to  
19 reduce the project's impacts unless the project applicant  
20 abides by them and implements them. Given the applicant's  
21 long history of violating state minimum solid waste  
22 standards as well as air quality violations, there is a  
23 fair argument that the project impacts will remain  
24 significant despite mitigation measures. And under CEQA,  
25 that is the relevant standard for triggering the

1 preparation of an EIR. There simply has to be a fair  
2 argument. And I think on this record we certainly have a  
3 fair argument.

4 In any event, even if the proposed mitigation is  
5 implemented, it is still inadequate. To take just as one  
6 example, air quality issues.

7 If capacity goes up to 1500 tons per day, the  
8 proposed permit would authorized 267 trucks to come to the  
9 facility each day. There's no requirement that these  
10 trucks be alternative fuel vehicles, so they're going to  
11 be diesel vehicles. Diesel vehicles belch particulate  
12 matter and NOx, nitrous oxide, which is a precursor to  
13 ozone. In the South Coast Air Basin it's a huge concern,  
14 and reducing both NOx and PM10 and PM2.5 is critical to  
15 attaining healthful air quality in the area.

16 The proposed mitigation measures contain such --  
17 for air quality contain such measures as a community  
18 complaint hotline and other things that will do absolutely  
19 nothing to address -- to mitigate the serious diesel  
20 emissions that are going to result from 267 diesel trucks  
21 going to this facility each day.

22 In addition, a study absolutely has to be done of  
23 the cumulative impacts of this project. There are a host  
24 of other transfer stations and of course the Bradley  
25 landfill in this area. And so the traffic, the odor, the



1 noise -- there are just enormous impacts that have to be  
2 studied on a cumulative basis.

3           So for all of these reasons the Board as a  
4 responsible agency should urge the local enforcement  
5 agency to prepare an EIR or undertake its own preparation  
6 of an EIR. And that, we believe, is your obligation as a  
7 responsible agency under CEQA.

8           Briefly, our two other concerns are the lack of a  
9 public hearing. There's been a lot of discussion of AB  
10 1497 this morning. And the local enforcement agency did  
11 not hold a public hearing. We understand staff's position  
12 that a public hearing was not technically required under  
13 the statute at present. However, the only reason it falls  
14 under this little loophole is because the operator for  
15 years and years and years was violating state law and not  
16 operating -- and operating without a solid waste  
17 facilities permit if it had had a solid waste facilities  
18 permit. If it had had a solid waste facilities permit, as  
19 it was required to do under state law, then the current  
20 application would be -- in order to expand the facility  
21 from 400 tons per day up to 1500 tons per day, would be a  
22 revision and would clearly fall under the plain language  
23 of AB 1497.

24           So by allowing the operator to get by without  
25 having a public hearing before the LEA, it is profiting

1 from its own long-standing violation of this agency's --  
2 of state law's -- a state law requirement to have a solid  
3 waste facilities permit if you're going to conduct the  
4 kinds of operations that it does.

5           And as a result of that -- two members of the  
6 community have traveled halfway across the state this  
7 morning in terrible weather to get up here to testify  
8 because of the importance of this issue. Twelve thousand  
9 other families in Holy Rosary were not able to do that.  
10 And so a local enforcement -- a hearing has to be held in  
11 the community so that the community can air their  
12 concerns. That is the purpose and intent of AB 1497. And  
13 AWI should not be able to evade that simply because it  
14 violated state law and never had a permit when it was  
15 required to.

16           Finally, we again also wanted to just draw the  
17 Board's attention to long-standing history of the  
18 operator's violation of state minimum standards. These  
19 are chronicled at length in the staff report. The fact  
20 that there was a one-time inspection on the eve, again, of  
21 this hearing does nothing to indicate -- it gives us no  
22 guarantee that the operator is going to continue to comply  
23 with its obligations. Section 44009 of the Public  
24 Resources Code imposes a mandatory duty on the Board to  
25 object to the issuance of a permit that is not in

1 compliance with state minimum standards. So we just  
2 really want to focus your attention to that history.

3 Thank you very much.

4 CHAIRPERSON MULÉ: Thank you, Ms. Lye.

5 Okay. I'm sure there are quite a few questions.

6 Mark, did you want to first respond to any of  
7 these statements that were made?

8 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

9 You know, I thought maybe it might be best to  
10 give the LEA a chance --

11 CHAIRPERSON MULÉ: Well, that's what I was  
12 thinking as well, is let's get the LEA up here to --

13 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

14 And then certainly staff can fill in any blanks  
15 that the LEA can't fill in.

16 CHAIRPERSON MULÉ: No, that sounds good. There  
17 are a number of issues that were raised. And I would -- I  
18 personally would like to hear the answers to some of these  
19 issues that were raised.

20 So, Mr. Tsuda, good morning.

21 MR. TSUDA: Good morning, Board members. I'm  
22 Wayne Tsuda, the Director of the City of Los Angeles LEA  
23 program.

24 And I have no prepared statement. However, I am  
25 willing to discuss any of the issues or questions that you

1 may have.

2 I know that -- in terms of an introduction to  
3 this, I would say that this is not a neat and tidy permit.  
4 This is a reflection of the changing regulations over the  
5 past few years.

6 This was not a solid waste facility. It did not  
7 require a solid waste facility permit. It was a C&D  
8 recycling facility. And as we know, the regulations have  
9 changed. There was no requirement for a public hearing,  
10 and we did not conduct one. However, we know that  
11 regulations again are changing and that in the future,  
12 facilities have this type will have public hearings.

13 The other side of the coin to this public hearing  
14 issue from the LEA perspective is this: As an LEA in a  
15 pretty urbanized setting, it would be very difficult for  
16 us to put on public hearings for every facility where it  
17 is not required. It's a labor intensive thing. And of  
18 course we would do it if it were a requirement. But  
19 there's also an issue of environmental justice as well.  
20 Why would one community get a hearing and other  
21 communities not get a hearing? Only because -- well, I  
22 don't know what the reason for that would be. I think  
23 every citizen in the City of Los Angeles deserves equal  
24 treatment.

25 In terms of the LEA's presence on the site: This

1 site had problems. It is a small business operation. It  
2 started off small. And as many businesses, it's pretty  
3 much grown into a fairly sophisticated business. And we  
4 are -- we have been monitoring this consistently because  
5 of the complaints that had come in. And I can tell you  
6 that in the last over two years our inspectors have been  
7 on site over 56 times inspecting the site. About once per  
8 year and more often if we saw something and needed  
9 correction and we would come back and assure that those  
10 corrections were made.

11 This again is activity that the LEA program  
12 absorbs. We don't get fees for these services. We just  
13 send our people out there to assure that the site is  
14 operating properly.

15 In addition to that we participated in the city's  
16 enforcement action for the Sun Valley Environmental  
17 Justice Zone, which I think some of you are familiar with.  
18 If not, city council had designated an area within the San  
19 Fernando Valley around Sun Valley as an environmental  
20 justice zone and sent out teams of inspectors to make sure  
21 that the businesses in that area were in compliance. This  
22 was no exception to that. And thorough investigation by  
23 local agencies did result in a civil suit.

24 And some of those conditions that you see in the  
25 mitigated Neg Dec were a direct result of those

1 investigations. And I might add that it resulted in a  
2 facility that is conditioned by the City of L.A. to exceed  
3 state minimum standards.

4           So we feel pretty good about the site. Despite  
5 the fact that it has had a spotty history in terms of  
6 compliance, we have gotten compliance when we have asked  
7 for it and issued notices or violations -- inspection  
8 report violations.

9           So if there are any other questions?

10           CHAIRPERSON MULÉ: Well, I do have a question  
11 regarding the -- some of the previous speakers had stated  
12 that they have orally and written requests for  
13 information. And could you explain to us why that  
14 information was not provided to these folks?

15           MR. TSUDA: We have never received a written  
16 request. We have no record of it. We may have had some  
17 verbal requests, but I'm not aware of those.

18           We do respond to those. We have a procedure  
19 that's in our EPP whereby anybody who wants a public  
20 record can just request it and we send it to them. So  
21 it's not something that we would certainly not do. But I  
22 can't explain why we did not get any requests.

23           CHAIRPERSON MULÉ: Okay. So you're saying you  
24 received no written requests?

25           MR. TSUDA: No.

1           CHAIRPERSON MULÉ: And you're saying, as far as  
2 you know, you received no verbal requests. And yet these  
3 other people are indicating otherwise. So I'm --  
4 obviously there's a communication problem there.

5           But I will allow some of my other Committee  
6 members and Board Member Danzinger to ask questions. So  
7 go ahead.

8           Board Member Wiggins.

9           COMMITTEE MEMBER WIGGINS: I have an answer. The  
10 question was: Why would this community have a hearing and  
11 other communities don't? I grew up right next to Sun  
12 Valley. And they have like 11 landfills. It was a poor  
13 area and everything got dumped there. It's a very unique  
14 community. It's coming into its own. And that is why it  
15 needs special treatment, because it's been mistreated  
16 historically. That's why.

17          BOARD MEMBER DANZINGER: Can I follow up on that  
18 thought, because I was just --

19          CHAIRPERSON MULÉ: Board Member Danzinger.

20          BOARD MEMBER DANZINGER: There seems to be an  
21 environmental justice confusion here. Because when I read  
22 the item, the item references that there are no  
23 environmental justice issues. But then, you know, I read  
24 Assembly Member Montaez' letter which references to a low  
25 to moderate income community with a large Latino

1 population. And you yourself, Mr. Tsuda, referenced the  
2 environmental justice as an applicable issue. So I'm just  
3 wondering how -- you know, again, the Sun Valley site  
4 seems to have been the kind of site that was contemplated  
5 by the legislators when they passed 1497. And, you know,  
6 given the checkered past, given the history, the  
7 substantial changes, the concerns, and clearly the strong  
8 public interest in this issue, I'm wondering why a hearing  
9 just wasn't held. Because, Mark, you referenced earlier,  
10 even though by a technical reading of the law no public  
11 hearing is required for this if it's deemed to be a new  
12 facility -- or a new permit I mean, the LEA still retains  
13 the authority to hold a hearing -- a public hearing at any  
14 time they wish. I'm just wondering -- all the signs seems  
15 to point to here's something that needs a public airing,  
16 here's something where, you know, we need to get the  
17 public involved and the community involved because of the  
18 nature of the community and the nature of the operation.  
19 I'm just wondering why that wasn't done.

20 I won't take that as a pregnant pause, Mr. Tsuda.

21 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

22 This is not an answer to that question. I think  
23 Wayne attempted to describe the LEA's approach to  
24 hearings.

25 I will indicate that in similar situations where



1 the Board is dealing with permits, there's usually the  
2 CEQA process that flows through. And in many  
3 jurisdictions that CEQA process will require -- does not  
4 require but they do conduct hearings relative to the  
5 adoption of the document. So that's historically how a  
6 lot of community involvement has occurred in the past.

7 In this particular case, the way the CEQA process  
8 flowed, there was no local hearing to discuss that  
9 mitigated Neg Dec as far as staff is aware. There may  
10 have been one. But certainly the noticing of the  
11 availability of that document occurred, so people that  
12 monitor those public notices would have been aware that  
13 there was a CEQA document in process and be able to  
14 participate in that. But that is not the same as public  
15 hearings.

16 BOARD MEMBER DANZINGER: I understand technically  
17 things are in order. I'm just saying -- and maybe that's  
18 our job. I don't know. But somebody needs to step above  
19 all of the minutia above the staffing constraints and the  
20 technicalities and take a common sense look at this  
21 facility, its history, you know, going to -- you know,  
22 making such a substantial change to how much tonnage it's  
23 going to accept and say, look, you know -- I mean I'd like  
24 to see the open transparent process that happens at this  
25 Board replicated everywhere across the state. Maybe

1 sometimes that's not feasible, maybe sometimes it's not  
2 necessary. This seems in retrospect -- and, Mr. Tsuda, I  
3 benefit from having a little retrospect and you were in  
4 the thick of it. But when we look back on it, you know,  
5 Monday morning quarterbacking, it seems quite obvious that  
6 this was a permit and this is a situation that warranted a  
7 more open, public process, because, you know, I've heard  
8 some comments this morning from some of the speakers that  
9 bear consideration and certainly I think deserve some  
10 responses.

11 And If I can transition quickly to one of those  
12 while it's still somewhat fresh in our minds, the comment  
13 by the person representing the teamsters as to why this  
14 does in fact constitute a revision as opposed to a new  
15 permit. Can somebody respond to that? Because I found  
16 that intriguing. I don't no whether it's Legal or  
17 Permitting staff or whether we're even prepared to respond  
18 to that.

19 STAFF COUNSEL BLEDSOE: Michael Bledsoe from the  
20 Legal Office. I'm not prepared to response to it right  
21 now because it made no sense to me.

22 The fact that this business has been operating  
23 for a number of years in violation of state law, I  
24 understand 100 percent -- and, you know, I guess if  
25 someone were to ask staff to look into what the LEA has

1 been doing in regard to it, you know, staff would do that.

2 But with respect to whether their conduct  
3 constituted a, quote, permit that is now being revised  
4 simply did not make any sense to me. So as far as we're  
5 understanding, there has been no permit for this facility;  
6 there probably should have been. Well, obviously there  
7 have been, because they're hear right now. So there's no  
8 permit to revise, thus no hearing.

9 BOARD MEMBER DANZINGER: So this is the opposite  
10 of no good deed goes unpunished?

11 STAFF COUNSEL BLEDSOE: It's not -- and I've  
12 heard several references this morning to a, quote,  
13 technical reading of the law. We're not doing a technical  
14 reading of the law. This is the plain language of what  
15 that statute says. You know, if there's a solid waste  
16 facility that's going to change its activities and thereby  
17 needs to change its permit, a hearing shall be held.  
18 That's what the law says.

19 CHAIRPERSON MULÉ: Well, my understanding from  
20 Mr. Tsuda was he indicated that this is a C&D -- this was  
21 categorized as a C&D processing -- recycling facility  
22 which at the time did not require a permit. Was that --

23 MR. TSUDA: Right.

24 CHAIRPERSON MULÉ: -- statement?

25 MR. TSUDA: Yes.

1           CHAIRPERSON MULÉ: And then can you just  
2 enlighten the Committee as to when those regulations  
3 changed which required this facility to have a permit? Or  
4 maybe staff can do that.

5           DEPUTY DIRECTOR LEVENSON: That was in August of  
6 2003.

7           CHAIRPERSON MULÉ: When the C&D regs were --

8           DEPUTY DIRECTOR LEVENSON: -- regulations, right,  
9 became effective.

10          CHAIRPERSON MULÉ: -- were effective.

11          DEPUTY DIRECTOR LEVENSON: And shortly after that  
12 the -- well, I can let Mr. Tsuda speak for the LEA's  
13 action. But they did inform the operator of the need to  
14 obtain a permit for that operation.

15          CHAIRPERSON MULÉ: At that time?

16          MR. TSUDA: Yes. And it was the intention of the  
17 operator to seek a full permit. And the CEQA M and D or  
18 the initial study started -- the initial study process  
19 started with the City Planning Department. And there  
20 were -- there was a great number of revisions that were  
21 done to that document and to our permit application. So  
22 there were delays.

23          And, you know, beyond that I can't -- I have no  
24 comments except to say that we were working in good faith  
25 and trying to keep the facility as a facility out of

1 violation.

2 CHAIRPERSON MULÉ: But it sounded like they had  
3 ongoing and continuous violations.

4 MR. TSUDA: Well, they had -- they would make  
5 corrections, and our inspectors would see those  
6 corrections. But then something would happen and there  
7 would be another violation. So over the 56 inspections,  
8 we probably -- we have a handful of violations, and we  
9 have documented those. We were sending those in on  
10 inspection report forms, so the Board staff was fully  
11 aware of that.

12 But this is a case where if a facility is a C&D  
13 facility and a sub-solid waste, and you issue a notice for  
14 them not to do that and they comply, they're no longer a  
15 solid waste facility. They're a C&D facility. So that's  
16 what happened in this case.

17 CHAIRPERSON MULÉ: Okay. So refresh my memory or  
18 the Committee's memory then. You're telling us that  
19 when -- that they were accepting solid waste as a C&D  
20 recycling facility; when you issued that cease and desist,  
21 they immediately stopped accepting solid waste?

22 MR. TSUDA: There were incidental loads of solid  
23 waste that we found at the facility. Not large  
24 quantities, but small quantities. And that was in  
25 violation of our orders and, therefore, they got notices

1 of violation for that.

2 CHAIRPERSON MULÉ: So how long did it take for  
3 them to comply with the notice of violation?

4 MR. TSUDA: We have not had a violation there  
5 since January 24th of '05 for solid waste. We did have a  
6 violation for vectors. I think our inspector did see some  
7 rats on the premises. And the facility called an  
8 exterminator. Bait stations were put in place. And we  
9 believe that it's working.

10 So the outstanding violation that the Board staff  
11 report mentioned was one for vectors. It wasn't for solid  
12 waste.

13 CHAIRPERSON MULÉ: Right. I read that.

14 Okay. Let me --

15 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

16 Madam Chair, if I may, relative to your last  
17 couple questions. On page 8-3 staff -- of the agenda item  
18 staff attempted to put a chronology of events in there.  
19 And a couple of the questions you asked about timing  
20 relative to the regs are included in there. As Howard  
21 indicated, the regs became effective August of 2003. A  
22 hundred eighty days after that effective date all C&D  
23 sites -- existing C&D sites should have had a permit. So  
24 this technically does -- not even technically -- reality,  
25 just a fair reading of the law indicates that this site

1 should have been permitted sometime early '04.

2 CHAIRPERSON MULÉ: Right.

3 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

4 And they're just now coming forward.

5 CHAIRPERSON MULÉ: Right. They had six months to  
6 get their permit in August. So you figure that was what,  
7 February --

8 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

9 Right.

10 CHAIRPERSON MULÉ: -- of '04. And here we are in  
11 April of '06.

12 BOARD MEMBER DANZINGER: Yeah, what would  
13 normally be done after that 180 days, you know, that --  
14 you know, they had 180 days to get a permit for the C&D  
15 portion and they were already under the cease and desist  
16 for the solid waste, the MSW. At the end of the 180 days  
17 what is usually the process that we engage? Because the  
18 end of that 180 days is still what, about two years ago?

19 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

20 Right.

21 Okay. So that means that they'd been unpermitted  
22 for -- you know, they're an unpermitted facility for 180  
23 days after the regs are passed. That's acceptable. But  
24 they'd been an unpermitted facility taking C&D for two  
25 years since, correct?

1 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

2 That staff's understanding, yes.

3 BOARD MEMBER DANZINGER: I'm just wondering can

4 a -- what, is there a process like at the local level that

5 sort of --

6 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

7 The regs did include a mechanism to basically

8 grandfather existing sites to ease the burden of getting a

9 full permit. And that was to allow a temporary permit,

10 which was basically a registration permit. So --

11 BOARD MEMBER DANZINGER: Did they get that?

12 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

13 That was not utilized in this case.

14 BOARD MEMBER DANZINGER: So we provided a more,

15 you know, user friendly alternative, for the time being at

16 least, until they could --

17 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

18 Easier than just jumping right to a full permit.

19 BOARD MEMBER DANZINGER: They didn't avail

20 themselves of that?

21 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

22 No.

23 BOARD MEMBER DANZINGER: Okay.

24 MR. TSUDA: If I could comment on that.

25 We had received several permit applications



1 during this time. And each of them were technically  
2 deficient for different reasons. And we were working with  
3 the operator to correct those deficiencies to get a full  
4 facility permit application that was complete and correct.

5           You know, I would say that from my perspective, I  
6 think a -- there should be some consideration here for  
7 small businesses getting into this field. I'm not saying  
8 that it is any excuse for the time delay. However, the  
9 LEA is -- when confronted with a situation like this, the  
10 LEA has only a limited number of choices. And what we did  
11 in this case was we worked diligently with the facility  
12 operator to get them to give us what is technically  
13 required by law and to keep a recycling facility in  
14 operation legally, with no violations, no -- but it was a  
15 difficult process, I grant you that.

16           CHAIRPERSON MULÉ: Board Member Wiggins.

17           COMMITTEE MEMBER WIGGINS: I have a couple of  
18 questions.

19           First is for staff to clarify. I think I missed  
20 why there was -- there didn't have to be a hearing for a  
21 negative dec.

22           PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

23           CEQA law does not require a public hearing in the  
24 CEQA process. Typically there is a hearing. It's usually  
25 associated with the actual approval of a project. So most

1 people, you know, take it for granted that if you're doing  
2 a CEQA process, you have to do a public hearing. There is  
3 no public hearing requirement in CEQA.

4 So in theory and in reality, a CEQA document can  
5 be developed, noticed for its availability for review and  
6 comment, and adopted without the benefit of any local  
7 hearing relative to that CEQA document.

8 COMMITTEE MEMBER WIGGINS: But then the project  
9 itself would have a hearing?

10 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

11 Certainly if there's some sort of local land-use  
12 approval or a change in local land use or some other local  
13 permit, there would be -- typically there would be some  
14 sort of public hearing when that decision's made by that  
15 local decision-making body.

16 In this case, the LEA acted as, in effect, the  
17 lead agency for the CEQA process. The planning department  
18 actually developed a document. So I guess they should be  
19 referred to as the lead agency, whereas they did it on  
20 behalf of the LEA.

21 And so there was no requirement for the LEA to  
22 have a hearing relative to the CEQA process. Their local  
23 ordinances don't require them to do that, and so they  
24 didn't schedule one and hold one.

25 COMMITTEE MEMBER WIGGINS: Okay. They got away

1 with murder.

2 The difference in the two permits is one site,  
3 but there's two permits. Can you explain the difference  
4 on the two activities again? I don't understand the old  
5 one.

6 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

7 Yeah, I'm not -- I'm not sure what you're  
8 referring to. Currently it's staff's understanding that  
9 there is the what's referred to as a limited volume  
10 transfer station within what will be the permitted  
11 boundary, which is a notification level tier. It's not  
12 technically a permit. It's not a permit. It's a  
13 notification. It's one of these tiered levels that the  
14 Board developed back in the mid-nineties that allows --  
15 it's up to 15 tons or 60 cubic yards of waste to be  
16 handled under that notification tier.

17 The other activity occurring currently on-site is  
18 a C&D processing -- as it's defined under current reg, a  
19 C&D processing site. And it's at a level that -- I  
20 believe it's at a level right now that require a full  
21 permit as opposed to some lesser tier.

22 So that's occurring right now. This permit --  
23 this full permit will absorb both of those and then expand  
24 mostly in the C&D processing area, I believe --

25 COMMITTEE MEMBER WIGGINS: It combines the two

1 activities and expands them, and that's not a new --

2 that's not an expansion?

3 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

4 It's expansion and use, but it's a brand new

5 permit. There is no permit --

6 COMMITTEE MEMBER WIGGINS: So it's a brand new

7 permit, even though it's an expansion of use, doesn't

8 require a public hearing?

9 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

10 That's staff's view, yes.

11 BOARD MEMBER DANZINGER: Yeah, it's goofy. It's

12 because they didn't get a permit, which they were supposed

13 to, so now they're not going for a revision. That's

14 basically what's happened.

15 CHAIRPERSON MULÉ: So they were in violation of

16 the law by not getting a permit --

17 BOARD MEMBER DANZINGER: -- unintended

18 consequences.

19 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

20 And this is not an isolated situation. I think

21 Ms. Piece and perhaps Ms. Mulé -- Board Member Mulé have

22 been with the Board long enough to know that we have

23 brought several sites that should have had permits, didn't

24 have permits, bringing them forward to the Board to get

25 their required permit. And in all of those cases I

1 believe none of them potentially had a 1497 hearing.

2           So this is not something that, you know, this LEA  
3 in this jurisdiction is making up. It's pretty consistent  
4 statewide.

5           And, again, I'll put in the plug for the new  
6 regs, which we're having a workshop this afternoon, will  
7 change this dynamic. It will require a hearing in this  
8 particular situation.

9           DEPUTY DIRECTOR LEVENSON: And I would like to  
10 just add on to what Mark said about the proposed  
11 regulations that are the subject to this afternoon's  
12 workshop. And, that is, the Board recognizes this  
13 situation and in the discussions leading up to the  
14 development of those regulations specifically directed us  
15 to include provisions so that there would be hearing  
16 requirements for new permits for any solid waste facility  
17 permit. As Mr. Bledsoe indicated earlier, the language of  
18 the statute only speaks to in a change in an existing  
19 permit. So we have recognized the gap there, and the  
20 Board has directed us to fill that and that's what we're  
21 in the process of doing with these regulations.

22           COMMITTEE MEMBER PEACE: The 1497 also says a  
23 significant change. I know I've -- Like you said, I've  
24 been here long enough that I have raised this concern over  
25 and over and over again.

1           A couple questions I wanted to ask you. We're  
2 going from 400 tons a day to 1500 tons a day. It doesn't  
3 say anything about the traffic. Here it says the proposed  
4 limit's going to be 267 vehicles a day.

5           How many vehicles are going there now?

6           MR. TSUDA: At 400 tons? About 40.

7           COMMITTEE MEMBER PEACE: Okay. So -- and what  
8 are the hours of operation now?

9           MR. TSUDA: 7 a.m. to 8 p.m.

10          COMMITTEE MEMBER PEACE: So the hours are still  
11 the same.

12          But you're going from 40 vehicles a day to 267,  
13 400 tons a day to 1500 tons a day, and you didn't think  
14 that was a significant change. I mean you had mentioned  
15 that the LEA has choices that they can make. And I just  
16 have to say shame on you for not making the choice to hold  
17 a public hearing for this.

18          Every citizen in Los Angeles deserves to have --  
19 no matter how busy you are, no matter how many facilities  
20 there are, every citizen in Los Angeles deserves to have a  
21 chance to voice their concerns about what happens in their  
22 neighborhood and what could affect their lives. And you  
23 should have known that this is a very involved community.  
24 From the Bradley days, you should know this is a very  
25 involved and boisterous community. And I just think

1 you -- there's no -- I cannot believe that you did not  
2 make the choice to have a public hearing in this  
3 community. That really upsets me.

4           Also, you know, I still have questions on this  
5 permit here regarding the adequacy of the mitigated Neg  
6 Dec. A project here that's going to quadruple, I can't  
7 imagine -- and I just don't understand how a mitigated Neg  
8 Dec is adequate. Even in our staff report it says no peak  
9 or maximum permitted traffic level was discussed in the  
10 environmental document. And since the mitigated Neg Dec  
11 provided limited information regarding the project, that a  
12 transfer and processing report had to be incorporated as  
13 part of the environmental document, I've never even heard  
14 of that happening before. So I know I have a lot more  
15 questions on that before I would ever approve this permit.

16           CHAIRPERSON MULÉ: Mr. Tsuda, did you hold any  
17 public hearings at all or -- you know, throughout this  
18 process, did the --

19           MR. TSUDA: For other facilities or for this one?

20           CHAIRPERSON MULÉ: For this facility.

21           MR. TSUDA: No.

22           CHAIRPERSON MULÉ: Okay. Any other questions,  
23 comments?

24           Board Member Danzinger.

25           BOARD MEMBER DANZINGER: This just to staff. I

1 mean again I'll just -- I want to go back to this one  
2 issue. Can we just do a reassessment of the environmental  
3 justice issue for the agenda item for the Board meeting?  
4 Reassessment of the environmental justice issue for the  
5 agenda item for the Board meeting. It just -- I'm not  
6 sure that I'm satisfied that it's not an issue.

7 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

8 Yes.

9 BOARD MEMBER DANZINGER: Whether it has a bearing  
10 or not, I just think that it needs to be fleshed out or at  
11 least reconciled with what we've heard today.

12 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

13 Staff is aligned with that thought based on the  
14 information that we got today basically. I think we would  
15 modify that part of the agenda item relative to  
16 environmental justice to include the information and the  
17 issues raised, that sort of thing. And we would have done  
18 that if we had received the documentation prior to when  
19 this item went to print.

20 BOARD MEMBER DANZINGER: I understand.

21 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

22 That's our standard operating procedure is to  
23 include that kind of information under that section. So  
24 that -- Kitty indicated that we needed to do revisions to  
25 this item too. We'll add to that part too to reflect the



1 testimony today as well as the correspondence.

2 BOARD MEMBER DANZINGER: Okay. Thanks, Mark. I  
3 appreciate it.

4 CHAIRPERSON MULÉ: Well, I think what we're going  
5 to do is -- with the agreement of the Committee, is move  
6 this item to the full Board. Again, having received this  
7 information up on the dais does not give us or staff  
8 adequate time to review these documents and to comment on  
9 them.

10 And as we all heard, we have a lot of questions  
11 that remain unanswered. And we need to get quite a bit of  
12 clarification on a number of issues.

13 So, Howard, we'd like to move this to the full  
14 Board, if the Committee --

15 DEPUTY DIRECTOR LEVENSON: And that would be  
16 fine, Madam Chair.

17 I would like to make sure that we have a full  
18 understanding of all the issues that you want to get more  
19 information on.

20 Certainly the environmental justice issues that  
21 Mr. Danzinger just raised.

22 CHAIRPERSON MULÉ: -- environmental justice  
23 issues, the EIR requirements, the chronic -- the history  
24 of violations at this facility -- let's see. What else?

25 DEPUTY DIRECTOR LEVENSON: As part of that, the

1 environmental review information, we will include some  
2 information on what our prior comments were on the  
3 environmental documents as well.

4 There also is probably information that should be  
5 included about the stipulated agreement. Some of the  
6 conditions are included in the permit.

7 CHAIRPERSON MULÉ: Right.

8 DEPUTY DIRECTOR LEVENSON: Let's see --

9 CHAIRPERSON MULÉ: Are there any other issues  
10 that the Committee would like staff to bring back to us --  
11 research and bring back to us before the --

12 BOARD MEMBER DANZINGER: I'm just -- I'm still a  
13 bit confused on one aspect. The role as the responsible  
14 agency as it relates to the mitigated Neg Dec, we can  
15 concur, we cannot concur, we can make our own findings, is  
16 that -- what can we do?

17 DEPUTY DIRECTOR LEVENSON: We'll refer to Mr.  
18 Bledsoe. We have -- it's a complex role.

19 STAFF COUNSEL BLEDSOE: Madam Chair, Member  
20 Danzinger.

21 The basic situation when we -- when the Board is  
22 the responsible agency is that we must rely on the  
23 environmental document prepared by the lead agency,  
24 whether that's an EIR or a Neg Dec or, as here, a  
25 mitigated Neg Dec. So once the lead agency has adopted

1 it, we do review that environmental document and make our  
2 own determination about whether to approve the project.  
3 We do not make any determination regarding the quality of  
4 the responsible agency's environmental document unless  
5 certain things have happened.

6           And sort of the bottom line there is, providing  
7 that the lead agency has adequately informed us of the  
8 process while they were developing the environmental  
9 document and we've had an opportunity to comment, that's  
10 the way responsible agencies typically participate in the  
11 environmental process.

12           If they have done that, and we still feel that  
13 they're environmental document is inadequate for our  
14 purposes, then we sue the lead agency. Otherwise, we  
15 accept their document and make our own decisions on the  
16 project based on the environmental analysis that they have  
17 done.

18           Now, there are circumstances, fairly rare, where  
19 the Board could actually -- or our responsible agency can  
20 take over as lead agency, and have it -- if my memory is  
21 serving me correctly, I mean if between the time -- after  
22 the time the lead agency approves the project, the project  
23 changes or new information is discovered or we learn that  
24 there is going to be greater impacts than the lead agency  
25 thought were going to occur, those sorts of situations

1 would enable us to take over as lead agency. But this Neg  
2 Dec was concocted last week --

3 BOARD MEMBER DANZINGER: So there's no middle --

4 STAFF COUNSEL BLEDSOE: -- so those things have  
5 not happened.

6 BOARD MEMBER DANZINGER: So we take over as EA or  
7 we sue the LEA, those are like the first steps we can  
8 take?

9 STAFF COUNSEL BLEDSOE: We would take over as  
10 lead agency and prepare our own environmental document,  
11 not take over as enforcement agency.

12 But if the lead agency's document is inadequate  
13 for our purposes, meaning we think they violated CEQA, we  
14 would sue them on that ground.

15 BOARD MEMBER DANZINGER: You said we could accept  
16 the findings, the docs, and then make our own findings  
17 about the operation. What are the consequences of that or  
18 what -- is there any substance to that? I mean does that  
19 have any impact on what our role can be?

20 STAFF COUNSEL BLEDSOE: I'm sorry. I don't think  
21 I'm quite --

22 BOARD MEMBER DANZINGER: Well, you had said one  
23 of the options is we could accept the environmental docs,  
24 but then make our own findings about the operation.

25 STAFF COUNSEL BLEDSOE: We have to accept. It's

1 not an option. We have to --

2 BOARD MEMBER DANZINGER: Right. Okay. They  
3 technically got everything right in the docs. Yeah, got  
4 it.

5 But then when you say -- and then we can make our  
6 own findings about the operation.

7 STAFF COUNSEL BLEDSOE: Then we use the  
8 information that they have generated in their  
9 environmental document to help us make our decision.  
10 We're responsible for the operation in a design of solid  
11 waste facilities. So if the project, in this case the  
12 transfer station, is going to have impacts that are  
13 directly related and arguably indirectly related to those  
14 activities that we have jurisdiction for, then we could  
15 disapprove the project because it's going to have two  
16 significant environmental effects. But on it -- that  
17 would be the case with if they had adopted an EIR. Here  
18 they've adopted a mitigated Neg Dec.

19 So the determination has been made by the lead  
20 agency, unless someone sues them, that this project is not  
21 going to have significant environmental effects. So, you  
22 know, our finding has to be -- cannot be different from  
23 that. And if we think that it is different, we should sue  
24 them. And we have 30 days from the time they file a  
25 notice of determination.

1 BOARD MEMBER DANZINGER: Thanks, Michael.

2 STAFF COUNSEL BLEDSOE: You're welcome.

3 CHAIRPERSON MULÉ: Board Member Wiggins.

4 COMMITTEE MEMBER WIGGINS: So if you sue the LEA,  
5 then you automatically -- the Board automatically becomes  
6 the lead agency?

7 STAFF COUNSEL BLEDSOE: No, ma'am. We would  
8 simply be a plaintiff challenging the validity of the lead  
9 agency's environmental document. We would not  
10 automatically become the lead agency as a result of that  
11 action.

12 COMMITTEE MEMBER WIGGINS: Okay. And then the  
13 second question is: If we think that an EIR is required  
14 rather than an negative dec, can we require it?

15 STAFF COUNSEL BLEDSOE: If we felt that an EIR  
16 were required for this project instead of a Neg Dec, we  
17 would then have to sue the lead agency to force them to do  
18 an environmental impact report. That would be the -- I  
19 mean we could have commented during the process that,  
20 "Hey, guys, we really think this is a big deal. You  
21 better do an EIR here." And hopefully we would have made  
22 that comment if we felt so strongly about it.

23 But that would be the situation. You know, we  
24 have to sue them if they have violated CEQA.

25 COMMITTEE MEMBER WIGGINS: But even an EIR

1 wouldn't require a public hearing?

2 STAFF COUNSEL BLEDSOE: No. Neither EIR nor Neg  
3 Dec requires a public hearing under state law.

4 COMMITTEE MEMBER WIGGINS: Okay. Thanks.

5 CHAIRPERSON MULÉ: Okay.

6 COMMITTEE MEMBER PEACE: Can I ask just one more  
7 question.

8 How far away is this facility from the Bradley  
9 landfill, approximately?

10 CHAIRPERSON MULÉ: Does anybody have an answer?

11 COMMITTEE MEMBER PEACE: Does anybody have any  
12 idea?

13 MS. DESPRES: Half a mile.

14 COMMITTEE MEMBER PEACE: Just a half a mile?  
15 Because I know they're proposing a new MRF there at the  
16 Bradley landfill.

17 MS. DESPRES: Six thousand tons per day.

18 COMMITTEE MEMBER PEACE: Yeah. So when they do  
19 an EIR, I mean what does -- wouldn't it take into  
20 consideration --

21 CHAIRPERSON MULÉ: EIR is available for  
22 Bradley -- Bradley expansion. There is an EIR available  
23 for the Bradley expansion.

24 COMMITTEE MEMBER PEACE: It doesn't take into  
25 effect that this facility was expanding and that there's

1 going to be traffic a half -- more traffic that's a half a  
2 mile away?

3 STAFF COUNSEL BLEDSOE: Michael Bledsoe from the  
4 Legal Office.

5 Presumably the environmental document, EIR, for  
6 Bradley should include the cumulative impacts from other  
7 related projects and reasonably anticipated additional  
8 projects, you know, that would have impacts at Bradley.

9 CHAIRPERSON MULÉ: Mr. Tsuda, did you want to  
10 comment on it?

11 MR. TSUDA: Just wanted to make one  
12 clarification. And, that is, it is important to keep in  
13 perspective that the City of Los Angeles processed a CUP  
14 back in '99, which the current M and D is based on, that  
15 recognizes the land use of a transfer station at 1500 tons  
16 per day. And I think that's been well established, it's  
17 in the record.

18 Also, we have been working very closely with  
19 Waste Board staff on this. And there were initial issues  
20 concerning the M and D and our package. And we had worked  
21 with Board staff to correct those or at least give Board  
22 staff the information that they desire. And we did get  
23 confirmation in a letter from Board staff that CEQA was  
24 adequate. So at that point we didn't feel that it was a  
25 remaining issue.



1           CHAIRPERSON MULÉ:   Okay.   Thank you.

2           PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

3           Madam Chair, if I may.

4           Relative to the Bradley issue, staff is still  
5 preparing their comments on that draft EIR.  It's due  
6 Wednesday.  We should have it out the door by tomorrow.  
7 But we wanted to take the full -- take advantage of all of  
8 the time that we had available to review that.

9           So we'll look again on that.  And if there's  
10 anything missing relative to cumulative impacts relative  
11 to this site, we'll bring it to the attention of the lead  
12 agency relative to that.

13           And then just to support what Wayne was saying,  
14 is that when we first became aware of the American Waste  
15 situation and wanting to move up and become more of a full  
16 transfer station, there were multiple discussions about  
17 the adequacy of the existing CEQA documentation.  And I  
18 think as a part of that this additional mitigated Neg Dec  
19 was developed and circulated.  So we've been working  
20 closely with the LEA throughout in trying to improve the  
21 level of review -- environmental review for this facility.

22           CHAIRPERSON MULÉ:   Okay.   Thank you, mark.

23           Board Member Peace.

24           COMMITTEE MEMBER PEACE:  Yeah, I guess there's  
25 just one more thing I would like to include at the request

1 of Assembly Member Cindy Montaez' office. If we can  
2 include in the things that staff is going to be back --  
3 come back for the full Board, if AB 1497 -- I mean if they  
4 would have had their permit, then 1497 would have applied.  
5 So the issue is that they would have complied with the  
6 law -- I'm sorry, I'm trying to read this thing here --  
7 that if they would have had a permit in the first place,  
8 then they would have been mandated to hold a public  
9 meeting. If you could just include that in your report,  
10 write that, say if they would have had a permit like they  
11 were supposed to have had, then a public hearing would  
12 have been required.

13 DEPUTY DIRECTOR LEVENSON: We certainly will. I  
14 would just like to say that probably if they had a permit  
15 in the last two years, it would have been for this  
16 project. So they wouldn't be coming in now for a permit  
17 revision. So I'm not sure that it truly makes a  
18 difference. But we will look at that.

19 COMMITTEE MEMBER PEACE: Well, I guess when it  
20 comes to where it says in here that they weren't required  
21 to have one --

22 DEPUTY DIRECTOR LEVENSON: No, but once they  
23 became required to get one, if they had come in, say, a  
24 year ago, it would have been probably -- probably for this  
25 project as described. And so they wouldn't be here today.

1 COMMITTEE MEMBER PEACE: Right. You make it  
2 clear that they weren't required -- they weren't required  
3 to have one. But if they would have complied with the law  
4 in the first place and had a permit, then they would have  
5 been required to hold a public hearing.

6 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:  
7 Not to belabor it too much, but the current C&D  
8 regs, if they got permitted as a C&D processor as opposed  
9 to a solid waste facility transfer station, those regs do  
10 require a public hearing for a new permit as a C&D. And  
11 part of what we're trying to do with the 1497 reg package,  
12 which has more than just 1497 in it, is to require that  
13 same thing for all solid waste facilities: Transfer  
14 stations, landfills, C&D sites, composting sites. And  
15 that's per direction of the Board. But if that initial  
16 permit had been for a C&D processor, they would have had a  
17 public hearing per our regs that predated 1497. So we can  
18 bring that out too in the item.

19 COMMITTEE MEMBER PEACE: Thank you.

20 CHAIRPERSON MULÉ: Okay. Any further discussion?

21 Thank you all very much. Thank you all for  
22 braving the weather and coming up here today. We really  
23 appreciate your time, all of you, Mr. Tsuda.

24 Let's move forward to Committee Item F, Board  
25 Agenda Item 9. This is our final agenda item for the day.

1           DEPUTY DIRECTOR LEVENSON: Thank you, Madam

2 Chair.

3           This item is Consideration of a Revised Full  
4 Solid Waste Facilities Permit for the Sacramento Recycling  
5 and Transfer Station, Sacramento County.

6           Bea Poroli is going to make that presentation.

7           MS. POROLI: Good morning.

8           CHAIRPERSON MULÉ: Good morning -- or good  
9 afternoon, Bea.

10          MS. POROLI: Oh, that's right. Good afternoon.

11          The proposed revised permit is to change the  
12 permitted traffic limit at the facility from 544 vehicles  
13 per day to 2,492 passenger car equivalent trips in. The  
14 intent is to allow the operator more flexibility by  
15 allowing smaller vehicles when the traffic volume of the  
16 larger vehicles is low.

17          At the time the agenda item was prepared staff  
18 had yet to determine the following: Consistency of  
19 facility's design and operation with the state minimum  
20 standards and consistency of the project with the  
21 California Environmental quality act, CEQA.

22          Since the item was prepared the following  
23 development took place: On March 23, 2006, staff  
24 conducted a pre-permit inspection with the LEA. We found  
25 that the design and operation of the facility were

1 consistent with the applicable state minimum standards.

2 On March 28th, 2006, the LEA submitted a modified  
3 version of the proposed permit with the change in the  
4 permitted traffic volume from 2,592 to 2,492 PCEs. Copies  
5 of the modified version of the proposed permit were  
6 provided to you late last week.

7 The agenda item was updated on March 30th, 2006.  
8 The updated version of the agenda item and draft  
9 resolution have also been resubmitted for posting on the  
10 website.

11 The updated agenda item and draft resolution now  
12 reflect that all of the requirements for the proposed  
13 revised permit have been met, as indicated on page 9-3 of  
14 the updated agenda item. Therefore, staff recommends that  
15 the Board adopt Solid Waste Facility Permit Decision No.  
16 2006-58 concurring in the issuance of Solid Waste Facility  
17 Permit No. 34-AA-0195.

18 Representatives of the LEA and operator are  
19 present to answer any questions you may have.

20 This concludes staff's presentation.

21 CHAIRPERSON MULÉ: Thank you, Bea.

22 Are there are any questions?

23 Board Member Peace.

24 COMMITTEE MEMBER PEACE: I just had one question  
25 again. It says this permit was received on March 7th.

1 But in order to allow the Board to have the full 60 days  
2 to review, that we should have gotten it by February 10th.  
3 And then also on March 28th, just a few days ago, we  
4 received a revised proposed permit.

5 Does staff feel like they had adequate time to  
6 review this?

7 DEPUTY DIRECTOR LEVENSON: Thank you once again  
8 for asking that, Ms. Peace.

9 In this case, yes, we did have adequate time.  
10 And we were working with the LEA on that revised permit.  
11 And that's sometimes typical that we get some changes at  
12 the last minute.

13 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

14 And actually that new version of the permit was  
15 in response to some discussions that Bea had with the LEA.  
16 So it's something that we actually prompted and looked  
17 for, and the LEA followed up with that. So it wasn't a  
18 unilateral action relative to that submittal.

19 COMMITTEE MEMBER PEACE: I know you're changing  
20 how you calculate the traffic here.

21 So what is the real traffic volume increase? Is  
22 there a real traffic volume increase?

23 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

24 There is no increase.

25 COMMITTEE MEMBER PEACE: There is no increase.

1 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

2 It's just a way of count -- a change in the way  
3 it's counted, which allows some flexibility but still  
4 retains the environmental controls.

5 I guess at their public hearing they -- it was  
6 explained that the permit only changed the unit of  
7 measurement of the permitted traffic volume. No other  
8 changes, but that the operator's considering increasing  
9 the tonnage in vehicles. I'm just wondering why they  
10 weren't doing that now. Why did they go through all this  
11 change without --

12 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

13 The larger project is still in the CEQA review  
14 process. And they were -- the way the current permit was  
15 written with a definitive vehicle count --

16 COMMITTEE MEMBER PEACE: The current CEQA only  
17 would allow this much traffic --

18 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

19 Exactly.

20 COMMITTEE MEMBER PEACE: -- but they're doing a  
21 new one to allow more traffic in the future.

22 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

23 And the technical aspect was the way the  
24 permit -- the solid waste facility permit was written  
25 locked them in on that count, no matter what kind of

1 vehicle that was. So if they got just pickups, as soon as  
2 they hit that number they had to stop. And so this allows  
3 to reflect the reality of the CEQA review and the  
4 situation at the site. But it doesn't increase anything.

5 And so the Board -- or the Committee will hear  
6 probably sometime in the near future an item to look at  
7 the larger project.

8 COMMITTEE MEMBER PEACE: Okay. Thank you.

9 CHAIRPERSON MULÉ: Board member Wiggins, a  
10 question?

11 COMMITTEE MEMBER WIGGINS: No, I was just going  
12 to move for adoption.

13 CHAIRPERSON MULÉ: Board Member Danzinger I  
14 believe has a question or a comment.

15 BOARD MEMBER DANZINGER: No, I don't -- actually  
16 I don't have a question. All I wanted to do was mention  
17 this was a facility that we recently visited. Was very  
18 impressed with their operation. They're doing it the way  
19 that it's supposed to be done, the single stream. It's  
20 the way of the future. And I want to commend them on  
21 their timing. You can't do any better than following Item  
22 8.

23 (Laughter.)

24 COMMITTEE MEMBER PEACE: And they had their  
25 public hearing.



1 BOARD MEMBER DANZINGER: And that too.

2 Thank you.

3 CHAIRPERSON MULÉ: Yes, they had a public -- they  
4 did have a public hearing, yes.

5 (Laughter.)

6 CHAIRPERSON MULÉ: Okay. Without further ado,  
7 Board Member Wiggins.

8 COMMITTEE MEMBER WIGGINS: I would like to move  
9 adoption of Resolution 2006-58.

10 COMMITTEE MEMBER PEACE: My resolution says  
11 "revised." Is that necessary that we get that?

12 COMMITTEE MEMBER WIGGINS: Revised.

13 COMMITTEE MEMBER PEACE: Okay. I second that.

14 CHAIRPERSON MULÉ: It was moved by Board Member  
15 Wiggins, seconded by Board Member Peace.

16 Donnell, would you please call the roll.

17 SECRETARY DUCLO: Members Peace?

18 COMMITTEE MEMBER PEACE: Aye.

19 SECRETARY DUCLO: Wiggins?

20 COMMITTEE MEMBER WIGGINS: Aye.

21 SECRETARY DUCLO: Chair Mulé?

22 CHAIRPERSON MULÉ: Aye.

23 That passes unanimously.

24 And we will put that on consent for the full  
25 Board next week.

1           And thank you all for being here, the LEA and the  
2 operator, thank you for being here.

3           Public comment? Are there any public comments?

4           Seeing none, this meeting is adjourned.

5           Thank you all.

6           (Thereupon the California Integrated Waste  
7 Management Board, Permitting and Enforcement  
8 Committee meeting adjourned at 12:30 p.m.)

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand  
3 Reporter of the State of California, and Registered  
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the  
6 foregoing California Integrated Waste Management Board,  
7 Permitting and Enforcement Committee meeting was reported  
8 in shorthand by me, James F. Peters, a Certified Shorthand  
9 Reporter of the State of California, and thereafter  
10 transcribed into typewriting.

11 I further certify that I am not of counsel or  
12 attorney for any of the parties to said workshop nor in  
13 any way interested in the outcome of said workshop.

14 IN WITNESS WHEREOF, I have hereunto set my hand  
15 this 11h day of April0, 2006.

16

17

18

19

20

21

22

23 JAMES F. PETERS, CSR, RPR  
24 Certified Shorthand Reporter  
25 License No. 10063